

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CM-2575-76-C-2023 in/&
RSA-393-2022 (O&M)
Date of Decision :28.03.2023**

State of Haryana and others

...Appellants

Versus

Laksman Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Vibha Tewari, AAG, Haryana for the appellant-State.

Mr. Amit Kaith, Advocate for the respondent.

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Harsimran Singh Sethi, J. (Oral)

CM-2575-C-2023

Application is allowed as prayed for.

CM-2576-C-2023

Application is allowed as prayed for.

Complete paperbook along with Annexure R-9 is taken on
record.

RSA-393-2022 (O&M)

Present regular second appeal has been filed by the appellant-
State of Haryana challenging the judgment and decree of the trial Court
dated 15.10.2016 as well as judgment and decree dated 27.11.2019 of the

Lower Appellate Court by which, suit filed by the respondent-plaintiff seeking benefit of regularization of service on completion of one year of service was allowed on the ground that similar benefit has been extended to large numbers of other similarly situated employee, keeping in view the direction given by this Court along with a direction to the respondent-State to release the consequential monetary benefits along with arrears with interest @12% per annum.

Learned counsel for the appellant-State submits that in the present case, a civil suit which has been filed by the respondent-plaintiff is time barred hence, no relief of regularization of service as being extended to the other Ticket Verifier can be allowed in favour of the respondent-plaintiff by the Courts below keeping in view the judgment of the Division bench of this Court in LPA-1662-2015 titled as *Sukhbir Singh and others vs. State of Haryana and others* decided on 31.08.2016 as well as the judgment of Coordinate Bench of this Court in CWP-2111-2017 titled as *Mahabir Singh vs. State of Haryana and others* decided on 02.05.2019. Learned counsel for the appellant-State further submits that in the present case grant of benefit of regularization along with arrears and interest from the year 1987 has been granted by the Lower Appellate Court without there being any valid justification and the said grant of arrears from the year 1987 needs to be modified.

Learned counsel for the respondent-plaintiff submits that in the present case, there is no delay in approaching the Court for the reason that claim of the respondent-plaintiff remained pending with the respondent-department since long and the suit filed by the respondent-plaintiff was within limitation.

Learned counsel for the respondent-plaintiff further submits that in 1996 when the respondent-plaintiff was working on temporary basis, he had filed CWP-3025-1989 seeking regularization of his service which petition was disposed of by this Court with a direction to consider the claim of the respondent-plaintiff for regularization of service. Thereafter, services of the respondent-plaintiff were regularized in the year 1996 though, he was claiming the said benefit from the year 1987 on completion of 240 days as the same was extended to the other similarly situated employees by the respondent-department.

Learned counsel for the respondent-plaintiff further submits that feeling aggrieved against the non-grant of full benefit, respondent-plaintiff had again filed CWP-18825-2003 which was admitted by this Court and ultimately the said writ petition was disposed of vide order dated 13.11.2013 with a direction to the respondent-department to consider the claim of the petitioner for regularization in service on completion of 240 days keeping in view the fact that said benefit was extended to another Ticket Verifier namely, Samay Singh, whose services have been regularized on completion of 240 days and in pursuance to the said direction of this Court, an order was passed on 23.02.2015 by the respondent-department, which was impugned by the respondent-plaintiff in the civil suit in the year 2015 itself. Hence, there was no delay in raising the claim by the respondent-plaintiff and the respondent-plaintiff cannot be said to be a fence sitter so as to apply the judgments in Sukhbir Singh (supra) and Mahabir Singh (supra).

Learned counsel for the respondent-plaintiff argues that in the year 2012, when the writ petition filed by the petitioner was pending,

keeping in view the order passed by this Court in CWP-6315-1998 titled as Jaimal Singh and others vs. State of Haryana and others decided on 30.09.2011 as well as in CWP-5532-2000 titled as Kuldeep Singh vs. State of Haryana, decided on 19.12.2011, which orders were upheld in LPA-862-2012, services of the similar situated Ticket Verifiers were regularized on completion of 240 days, hence once, the benefit has been extended to the similarly situated employees when the petitioner's writ petition was already pending in Court, denying the said benefit to the respondent-plaintiff on the ground of delay and that too without pointing out any difference with the other similarly situated employees, judgment of the Lower Appellate Court granting the said benefit to the respondent-plaintiff is perfectly valid and legal and the present regular second appeal is liable to be dismissed.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the facts and circumstances, which have been mentioned hereinbefore which are even not in dispute, it cannot be said that respondent-plaintiff is fence sitter or he never raised his grievance despite regularization of his service in the year 1999 up to the date of filing of civil suit in the year 2015. Rather even prior to the regularization of his service, respondent-plaintiff was agitating with the department for granting him the benefit of regularization as extended to the other similarly situated employees on completion of 240 days of service.

Further, respondent-department had passed an order on 23.02.2015 keeping in view the direction given by this Court in CWP-18825-2003 to consider the claim of the respondent-plaintiff on the same

footing as one Samay Singh, who was also a ticket verifier and has been granted the benefit of regularization of service on completion of 240 days but denied him the benefit. That being so, once the order passed by respondent-department on 23.02.2015 was challenged by the respondent-plaintiff in the civil suit, it cannot be said that suit filed by respondent-plaintiff is time barred and case of the respondent-plaintiff is covered by judgment of Division bench of this Court in *Sukhbir Singh (supra)* and judgement of the Coordinate Bench of this Court in *Mahabir Singh (supra)* hence, argument being raised by the appellant-State that the civil suit filed by the respondent-plaintiff is time barred, cannot be accepted and is accordingly rejected.

Second argument which has been raised by the learned counsel for the appellate-State is that once the service of the respondent-plaintiff has been regularized in the year 1999, grant of benefit on completion of 240 days should not have been entertained by the lower Appellate Court.

The said argument needs to be decided in terms of certain facts. It is conceded position that large numbers of ticket verifiers, who were similarly situated as the respondent-plaintiff were regularized on completion of 240 days on the direction given by the competent Court of law. It is conceded position that petitioners in *Jaimal Singh (supra)* and *Kuldeep Singh (supra)* have been given benefit of regularization on completion of 240 days and the said orders have already been upheld up to the Hon'ble Supreme Court of India and in pursuance to the said direction, an order was passed by the respondent-department on 07.08.2012 allowing the benefit in favour of the similarly situated employees of regularization of their service upon completion of 240 days of service. It may be noticed here that in the

year 2012, CWP-18825-2003 filed by the respondent-plaintiff was pending consideration before this Court, which was disposed of with a direction to consider the claim of the respondent-plaintiff keeping in view the grant of benefit to similar situated employees. Rather than granting the same benefit to the respondent-plaintiff, the relief was declined to him. Once, the benefit has been extended to the similarly situated employees, the judgment and decree of the lower Appellate Court dated 27.11.2019 granting the same benefit to the respondent-plaintiff on parity cannot be faulted with and needs no interference by this Court.

Learned counsel for the appellant-State further argues that even if benefit is to be granted, arrears be restricted as the grant of interest on the arrears by the lower Appellate Court is without appreciating the fact.

Learned counsel for the respondent-plaintiff on instructions from respondent-plaintiff who is present in person in the Court submits that the respondent-plaintiff will not claim the benefit of arrears for the period prior to three years and two months of filing the civil suit and will also not claim interest as being granted by the Lower Appellate Court.

Keeping in view the facts and circumstances narrated hereinbefore, judgment and decree of the Lower Appellate Court dated 27.11.2019 is modified to the extent that as under taken by the respondent-plaintiff though, the pay of the respondent-plaintiff will be fixed by treating him as regular employee on completion of 240 days of service as directed by the lower Appellate Court but the said benefit will be given notionally and the arrears will only be admissible for a period prior to three years and two months of the filing of the civil suit by the respondent-plaintiff and respondent-plaintiff will not be entitled for interest on the

arrears as the said benefit has been given up.

Keeping in view the above, present regular second appeal is partially allowed in above terms.

March 28, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No