

2023:PHHC:102773

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

(223)

CWP No. 15364 of 2019

Date of Decision : 24.07.2023

Jai Bhagwan

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.S. Sangwan, Advocate for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. The present petition has been filed by the petitioner challenging the order dated 10.03.2004(Annexure P-3) by which, his claim for regularization of his services on completion of 240 days keeping in view the Instructions dated 13.02.1979 (Annexure P-4) has been declined.

2. As per the facts mentioned in the writ petition, the petitioner was initially engaged in service on daily wage basis with the respondent-Transport Department, Haryana. His services were regularized in the year 2003. After the said order of regularization of his services was passed, the petitioner did not raise any grievance but thereafter, he started raising a claim that as per the Instructions of the Government of Haryana

dated 13.02.1979 (Annexure P-4), an employee is entitled for regularization of his/her services on completion of 240 days, hence, the petitioner be also granted the said benefit and his services be regularized on completion of 240 days from the date of his initial appointment, with all consequential benefits.

3. Notice of motion was issued and the respondents have filed the reply, wherein, the respondents have submitted that the petitioner was appointed much after the policy dated 13.02.1979 (Annexure P-4), which is being relied upon them. As per the respondents, the claim of the petitioner has been considered under various regularization policies, which came into operation after the appointment of the petitioner and his services have already been regularized in March, 2004, hence, the benefit of retrospective regularization from the date, he completed 240 days, cannot be granted. The respondents also relied upon the judgment of the Division Bench of this Court passed in LPA No. 1662 of 2015 titled as ***Sukhbir Singh and others Vs. State of Haryana and others***, decided on 31.08.2016, to contend that the similar claim raised for retrospective regularization services on completion of 240 days as per the Government Policy dated 13.02.1979 (Annexure P-4), has already been rejected by the Division Bench of this Court, hence, the present writ petition, which has been filed much after the said judgment, is liable to be dismissed.

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

5. The claim of the petitioner for regularization of his services has been undertaken by the respondents keeping in view the policy coupled with the fact that the condition mentioned in the particular

regularization policy is to be fulfilled by the candidate. The petitioner's services have already been regularized in March, 2004 and the only claim is that his services should be regularized on completion of 240 days from the date of his initial appointment keeping in view the regularization policy dated 13.02.1979 (Annexure P-4).

6. The said question of law, as to whether, an employee whose services have already been regularized, can claim regularization from an ante date keeping in view the Policy dated 13.02.1979 (Annexure P-4), has been decided by the Division Bench vide order passed in ***Sukhbir Singh's case (supra)***. The relevant paragraph of the said judgment is as under :-

“1. The question that arose for consideration of the learned Single Judge was whether the claim put-forth by the appellants by way of a writ petition filed in the year 2015 was suffering with inordinate delay and laches and was liable to be rejected on that ground?

2. The aforesaid question having been answered against the appellants. Admittedly, the appellants joined the Transport Department as Ticket Verifiers on daily wage basis in the year 1981-82. Their services were dispensed with on 13.02.1982 against which they raised industrial dispute, which was answered in their favour. Resultantly, they were reinstated on different dates in the year 1987-88.

3. Their services were regularized w.e.f. 01.04.1993 under a Government policy. The appellants continued to serve on regular basis and in the year 2012, they filed writ petition claiming that they were entitled to seek regularization on completion of 240 days service as per the old Government policy dated 19.02.1979. The writ petition was disposed of with a direction to the Authority to examine

and decide their claim. The competent authority rejected such claim vide order dated 11.12.2014 (P-9).

4. Still aggrieved, the appellants filed another writ petition in the year 2015, which has been dismissed by learned Single Judge on the ground of delay and laches.

5. We have heard learned counsel for the parties and gone through the record. There is no denial to the fact that after regularization of their services w.e.f. 01.04.1993, the appellants woke up first time in the year 2012 and raised claim for retrospective regularization. The said claim was based upon a decision of this Court dated 19.12.2011 rendered in the case of Jaimal Singh and others Vs. State of Haryana and another (CWP No.6135 of 1998) where this Court directed the State Government to identify the Depot-wise requirement of post of Ticket Verifiers and sanction the requisite posts so that their services could be regularized. The State Government undertook such exercise and the writ-petitioners in that case were made regular w.e.f. 01.04.1987.

6. It is in the light of these facts that the appellants also wanted the dates of regularization of their services to be antedated.

7. The fact that the appellants took no steps to claim the benefit of Government policy of 1979 for over 12 years is not in dispute. They cannot take the benefit of Jaimal Singh's case (supra) as the writ petitioners in that case had approached this Court in the year 1998 while the appellants remained fence-sitters. Even as per Jaimal Singh's case, there was no cutoff date for the purpose of regularization of services. Much was to depend upon as to how many posts were sanctioned in a depot. All the writ petitioners of that case were not made regular w.e.f. 01.04.1987.

8. Assuming that the appellants are similarly placed yet they lost their right as neither such claim was put up before the competent authority nor they approached any

other forum within a reasonable period. In this view of the matter, the rejection of their claim by learned Single Judge on the ground of delay and laches calls for no interference by this Court.

9. Dismissed.”

7. From the above reproduction, it would show that though certain employees had been given the benefit of the Policy dated 13.02.1979 (Annexure P-4) by this Court but the Division Bench dismissed the claim on the ground that benefit under 1979 Policy cannot be claimed at a later stage. Learned counsel for the petitioner has not been able to controvert that the judgment in ***Sukhbir Singh’s case (supra)*** covers his case against him, especially when the petitioner has filed this petition 15 years after the regularization of his services in the year 2004.

8. Keeping in view the above, no ground is made out for the grant of ante dated regularization to the petitioner on the basis of the Policy dated 13.02.1979 (Annexure P-4) so as to give him regularization from a date, when he completed 240 days from the date of his initial appointment.

9. Dismissed.

July 24, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No