

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(269)

RSA-852-2022 (O&M)

Date of Decision : 20.03.2023

Director General Animal Husbandry and Dairying Haryana,
Panchkula and others

...Appellants

Versus

Mahinder

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Vibha Tewari, Assistant Advocate General, Haryana.

Mr. Nihal S. Choudhary, Advocate for the respondent.

Harsimran Singh Sethi J. (Oral)

CM-2612-C-2022

Application is allowed, as prayed for.

RSA-852-2022

The present regular second appeal has been filed challenging the judgment and decree of the trial court dated 03.07.2019 by which, the suit filed by the respondent-plaintiff was decreed with cost as well as the judgment and decree of the lower appellate court dated 19.02.2020 by which, the appeal preferred against the judgment and decree of the trial court dated 03.07.2019 was also dismissed.

Certain facts needs to be mentioned for the correct appreciation of the controversy in hand.

The respondent-plaintiff, who was working in the State Cattle Breeding Farm as a daily paid labourer since 01.04.1992, claimed the

benefit of regularization of his services in pursuance to the Instructions issued by the Government of Haryana dated 07.03.1996 on the ground that he fulfilled all the requisite terms and conditions of the said policy but the benefit was not being extended to him. Thereafter, the State issued Instructions on 01.10.2003 for regularization of the services of the daily wage employees but still no benefit was given to the respondent-plaintiff.

The respondent-plaintiff claimed that in the year 2011 again a regularization policy was issued and though, the respondent-plaintiff has more than 10 years of service but still no benefit of the regularization policy was extended to him though, similarly situated employees and rather, juniors to the respondent-plaintiff were regularized in service. As the relief was not being extended to the respondent-plaintiff, he served a legal notice upon the appellant-department and ultimately, filed a civil suit claiming the regularization of his services.

The trial court allowed the suit filed by the respondent-plaintiff with the direction that the respondent-plaintiff is entitled for regularization of his services in terms of the Government Notification dated 01.10.2003 along with all the consequential benefits. Feeling aggrieved against the said decision, the State preferred an appeal, which was dismissed by the lower appellate court on 19.02.2020 hence, the present regular second appeal.

Learned counsel for the appellants-defendants argues that without actually adverting to the terms and conditions of the Regularization Policy of the year 2003, direction has been given by the courts below to regularize the services of the respondent-plaintiff with all consequential

benefits. Learned counsel for the appellants-defendants argues that the only direction, which can be given by the courts below, is for consideration of the claim under a particular policy but no actual order of regularization can be passed, whereas, in the present case, the direction has been given by the courts below that the respondent-plaintiff be regularized under the Policy dated 01.10.2003 with all consequential benefits. Learned counsel for the appellants-defendants submits that one of the condition in the regularization policy of the year 2003 was that an employee should have 03 years service to his/her credit and in each year, he/she should have completed 240 days service period, whereas the said condition is not being fulfilled by the respondent-plaintiff.

Learned counsel for the respondent-plaintiff submits that large number of Writ Petitions have been decided by the Division Bench while deciding LPA No. 688 of 2021 titled as ***State of Haryana and others Vs. Balwinder Singh and others***, decided on 02.12.2022 and keeping in view the said judgment, the respondent-plaintiff is entitled for consideration of his case for regularization of his services.

Learned counsel for the appellants-defendants submits that they have no objection in considering the claim of the respondent-plaintiff in accordance with law as per the Regularization Policy dated 01.10.2003 and in case, the respondent-plaintiff is found entitled for the benefit, in view of the said Policy or the judgment of the Division Bench in ***Balwinder Singh and others' case (supra)***, appropriate relief will be extended to him and the said consideration will be completed within a period of three months from today.

Learned counsel for the respondent-plaintiff submits that he has no objection in case, the judgment of the courts below is modified to the extent that the claim of the respondent-plaintiff be considered for regularization under the Regularization Policy dated 01.10.2003 coupled with the judgment of the Division Bench in ***Balwinder Singh and others' case (supra)***, and grant the relief to the respondent-plaintiff in case, he is covered by the said Policy coupled with the judgment of the Division Bench in ***Balwinder Singh and others' case (supra)***.

Keeping in view the above, as the parties have agreed that the claim of the respondent-plaintiff will be considered for regularization under the Regularization Policy dated 01.10.2003 by keeping in mind the judgment of the Division Bench in ***Balwinder Singh and others' case (supra)***, the judgment of the courts below is modified and the said consideration be undertaken and finalized within a period of three months from today and in case, the respondent-plaintiff is found entitled for regularization of his services, the said benefit be also extended to him within the said period.

The present regular second appeal is disposed of in above terms.

CM-2613-C-2022

As the main appeal is disposed of, the present application also stands disposed of.

March 20, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No