

CWP No. 17759 of 2017

2023:PHHC:129310

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(211)

CWP No. 17759 of 2017

Date of Decision : 05.10.2023

Satish Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

(219)

CWP No. 2304 of 2018

Sh. Harmesh Kumar and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Krishan Kumar Daaria, Advocate for
Mr. S.K. Daaria, Advocate for the petitioner(s) in both cases.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

By this common order, two writ petitions, the details of which have been given in the heading, are being decided as both these petitions involve the same question of law on similar facts.

In the present petitions, the prayer of the petitioner(s) is for regularizing the services of the petitioner(s) under the Policy dated 01.10.2003 with all consequential benefits.

For the purpose of this order, facts are being taken from CWP No. 17759 of 2017.

As per the averments made in the petition, the petitioner joined the respondent-department on 10.07.1995 on daily wage basis, however, on 17.07.1998, the services of the petitioner were terminated, which action of the respondents was challenged by the petitioner before the Industrial Tribunal-cum-Labour Court and vide Award dated 21.04.2006, the said termination of services of the petitioner has been held to be bad and the petitioner has been held entitled for reinstatement in service with 40% of the back wages. The prayer of the petitioner is that once he has already been reinstated in service, he is entitled for consideration of his claim under the Regularization Policy dated 01.10.2003 under which, services of the similarly situated employees have already been regularized.

Learned counsel for the respondents submits that the petitioner was a seasonal employee, hence, is not entitled for regularization of his services under the Policy dated 01.10.2003. Learned counsel for the respondents further submits that the continuity in service does not mean that the petitioner is entitled for regularization of his services.

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

Once, the petitioner(s) were appointed in the year 1993, 1994 and 1995 respectively and have been reinstated by the Tribunal in

the years 2000 and 2006 with continuity in service, the petitioner(s) are deemed to be in continuous service without any break.

Keeping in view the said fact, the petitioner(s) also become entitled for consideration of their claim under the Regularization Policy dated 01.10.2003. The respondents are under obligation to consider the claim of the petitioner(s) under the said Policy so as to ascertain whether, the petitioner(s) fulfill the condition of the said Policy or not. Nothing has come on record that the said consideration was ever given by the respondents in the case of the petitioner(s).

That being so, the present petitions are allowed to the extent that respondents will consider the claim of the petitioner(s) under the Policy dated 01.10.2003 for regularization of their services and in case, the petitioner(s) fulfill all the required qualifications/conditions of the said Policy, appropriate order be passed. In case, the respondents are of the view that petitioner(s) are not entitled for regularization of their services under the Policy dated 01.10.2003, a detailed speaking order giving the reasons for the same be passed and conveyed to the petitioner(s).

Petition(s) are allowed in above terms.

A photocopy of this order be placed on the file of connected case.

October 05, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No