

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(206)

CWP No. 3562 of 2016

Date of Decision : 20.09.2023

Pardeep Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.S. Ghumman, Advocate and
Mr. Chand Ram Narwal, Advocate for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the prayer of the petitioner is that he is entitled for consideration of regularization of his services under the Policy, which came into effect from 01.10.2003 keeping in view the facts of the present case, which benefit has wrongly been denied to the petitioner by the impugned order.

2. As per the facts mentioned in the petition, the petitioner was appointed on daily wage basis on a Class-IV post on 01.09.1995. The petitioner continued working on the said post till June, 1999 when his services were terminated, which action of the respondents was challenged by the petitioner before the Labour Court. The Labour Court vide Award dated 13.12.2006, held that termination of the services of the petitioner in June, 1999 was bad as the same was in violation of the provisions of the Industrial Disputes Act, 1947 and the petitioner was directed to reinstated

in service along with back wages to the tune of 30% from the date of the demand notice till the actual joining.

3. Keeping in view the Award, the Transport Commissioner, Haryana passed an order dated 12.06.2007, according to which, the petitioner was reinstated in service along with continuity from the date of initial appointment but 30% back wages were not paid keeping in view the written undertaking given by the petitioner.

4. Thereafter, the petitioner raised the grievance qua regularizing his services keeping in view the Policy, which had come on 01.10.2003 i.e. when the petitioner was out of service. The petitioner claimed that keeping in view the fact that he has already been reinstated in service from the date of his initial appointment, hence, he is entitled for consideration of regularization of his services under the 2003 Policy. The said benefit was not granted to the petitioner for which relief, the present petition has been filed.

5. After the notice of motion, the respondents have filed the reply, wherein, they have stated that though the petitioner was reinstated in service but as per the Award dated 13.12.2006, he was not to be given continuity, hence, on 01.10.2003 when the Policy for regularizing the services of the employees was made operational, the petitioner was not in service, hence, he cannot be granted the benefit of regularization of his services under the Policy dated 01.10.2003.

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

7. It is a conceded position that the petitioner was appointed on Class-IV post on 01.09.1995 and he continued working on the said post for a period of approximately four years when his services were terminated in June, 1999. The said order of termination of the services was found to be bad by the Labour Court and vide an Award dated 13.12.2006 the petitioner was directed to be reinstated in service, which benefit has already been extended by the respondents by passing an order dated 12.06.2007 (Annexure P-4). The said order dated 12.06.2007 is as under :-

“In compliance with the Award dated 13.12.2006 of the Presiding Officer, Industrial Tribunal-cum-Labour Court, U.T., Chandigarh, published on 06.02.2007, Sh. Pardeep Kumar son of Sh. Karam Singh, R/o Village Makhrouli, P.O. Shahpur, Nurhad, Tehsil Naraingarh, District Ambala is hereby reinstated in service w.e.f. 30.04.2007 on daily wages Photostat Machine Operator with continuity of service from the initial date of appointment. He will, however, not be entitled to the 30% back wages as ordered by the Hon’ble Labour Court in view of his written undertaking that he is ready to forego the backwages.

*M. Ramsekhar
Transport Commissioner,
Haryana.”*

8. A bare perusal of the order would show that the petitioner has been reinstated in service with continuity from the date of initial appointment by the respondents. Nothing has come on record that the said order dated 12.06.2007 has modified by the respondents in any

manner to withdraw the continuity in service. Rather in the subsequent order dated 22.06.2016 also, a copy of which has been appended as Annexure R-1, the same fact has been reiterated that the petitioner has been granted the benefit of continuity of service from the date of initial appointment.

9. That being so, once the respondents themselves have granted the benefit of continuity of service, it does not lie with the respondents to contend that the petitioner cannot be given continuity of service by the Labour Court so as to be treated him in service as on 01.10.2003 for the grant of benefit of regularization of his services under the regularization policy dated 01.10.2003, hence, the ground being taken by the respondents to deny him consideration under the Policy dated 01.10.2003 is not at all valid and cannot be accepted. Hence, the respondents are directed to consider the claim of the petitioner for regularization of his services under the Policy dated 01.10.2003 and pass an appropriate order within a period of eight weeks from the receipt of certified copy of this order.

10. Needless to say that in case, after the consideration, the petitioner is found entitled for the benefit, the same will be granted to him notionally except for arrears for a period of three years two months from the date of filing of the present petition.

11. Petition is allowed in above terms.

September 20, 2023

kanchan

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No