

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

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**CWP No. 17148 of 2023
Date of Decision : 10.08.2023**

*Parduman Singh and others**..... Petitioners**versus**State of Haryana and another**..... Respondents*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. S.P. Laler, Advocate, for the petitioners.

Mr. Harish Nain, AAG, Haryana.

Ms. Santosh Miglani, Advocate and
Mr. Dalbir Singh, Advocate, for respondent No.2/
Caveator Pawan Kumar

TRIBHUVAN DAHIYA J. (ORAL):

This writ petition has been filed seeking a writ of *certiorari* quashing the orders dated 17.07.2023 (Annexure P-8) and 18.06.2020 (Annexure P-10) *qua* regularisation of the petitioners' service as per regularisation policy dated 07.03.1996 (Annexure P-3), and treat them regular w.e.f 31.01.1996 in College cadre as per their order of regularisation and para 3 of the regularisation policy; consequently, grant them seniority from that date in the cadre of Lecturers and further promotions w.e.f. 03.04.2023 as granted to other Lecturers.

2. Learned counsel for the petitioners contends that the petitioners were regularised in service, vide order dated 02.07.2014 (Annexure P-1), in terms of regularisation policy dated 07.03.1996 w.e.f. 31.01.1996 on

the terms and conditions mentioned therein. It is also contended that

Clause 3 of the policy prescribes that seniority of *ad hoc* Class-II employees regularised w.e.f. 31.01.1996, vis-a-vis, Class-II employees appointed on the same date on regular basis, shall be determined w.e.f. 31.01.1996. This benefit has not been granted to the petitioners as they are not placed in the cadre of lecturers at the correct position on the basis of their date of regularisation. Therefore, the consequential benefits flowing to other employees in the cadre are not being given to them. Learned counsel also referred to a judgment of the Supreme Court, dated 3.7.2023, passed in Civil Appeal No. 4146 of 2023 titled *Raman Kumar and others v. Union of India and others*, to contend that the petitioners cannot be discriminated against, and they are entitled to the same benefits as have been granted to the similarly placed employees.

3. Learned State counsel, appearing on advance notice, contends that the policy of regularisation dated 07.03.1996 was withdrawn by the Government in the light of Constitution Bench Judgment in *Secretary, State of Karnataka and others v. Umadevi (3) and others*, (2006) 4 SCC 1, vide Notification dated 13.4.2007. However, it was revived by the government notification dated 16.06.2014, issued for regularisation of *ad hoc* Group-B service employees which reads as under:

Now the State Government has reconsidered the matter and has decided to revive the above mentioned policy dated 07.03.1996 to the extent that only those Group 'B' employees working on *ad-hoc* basis whose services could not be regularized vide State Government Policy dated 07.03.1996 due to withdrawal by the State Government vide letter dated 08.12.1997 shall be regularized with effect from the date they were eligible as per the policy dated 07.03.1996. Other terms & conditions of regularization would remain the same. The above decisions regarding regularization would be applicable to the employees who are presently working

with the Government.

4. It is further contended that the policy of regularisation, dated 07.03.1996, as revived vide Notification dated 16.06.2014, was impugned in CWP No.17206 of 2014 titled *Yogesh Tyagi and another v. State of Haryana and others*, and was quashed by the Division Bench, vide judgment dated 31.05.2018, alongwith other regularisation policies of the government dated 18.06.2014, 7.7.2014 (for Group-B employees) and 07.07.2014 (for Group C & D employees). Consequently, the appointment of persons regularised under the policies, including that of the petitioners, was also quashed. The judgment was challenged before the Supreme Court by filing the SLP No.31556 of 2018 and the matter is *sub judice* there. In view thereof, the claim raised by the petitioners for granting benefit of seniority in terms of regularisation cannot be considered at this stage.

5. Learned State counsel has also pointed out that the petitioners no. 1, 3, 5 and 8 had earlier approached this court by filing petition, CWP No.13254 of 2020 titled *Parduman Singh and others v. State of Haryana and another*, seeking direction to count their *ad hoc* service towards seniority. The petition, alongwith other connected writ petitions, was dismissed by this Court vide judgment dated 23.05.2022. Therefore, they are not entitled to file the instant petition.

6. Learned counsel for the parties have been heard.

7. Since the Regularisation Policy dated 07.03.1996, as revived vide Notification dated 16.06.2014, already stands quashed by the Division Bench in *Yogesh Tyagi* case (*supra*) and the matter remains *sub judice* before the Supreme Court in pending SLPs against the judgment,

the claim of seniority in terms of the said regularisation policy cannot be entertained. Undisputedly, after quashing of the regularisation policy under which the petitioners were regularised, they remain in service on account of order of *status quo* granted by the Supreme Court which does not give them a cause to file the instant petition seeking seniority and promotion. Their right to be in service itself is still to be finally adjudicated, and the right to be assigned seniority and considered for promotion, if any, can arise only thereafter. In view thereof, there is nothing illegal in the impugned order, dated 17.7.2023, declining to consider the petitioners' case for seniority, as also the clarification/letter, dated 18.6.2020, that benefit of promotion to the petitioners and others similarly placed, will be withheld till further orders from the Supreme Court, and the juniors will be promoted subject to final decision of the Court.

8. Further, it could not be disputed by learned counsel for the petitioners that four of the petitioners (nos. 1, 3, 5 and 8) had already approached this Court by filing CWP No.13254 of 2020, claiming relief of counting their *ad hoc* service towards seniority. It stands declined vide judgment dated 23.05.2022 against which LPA No.576 of 2022 is pending before the Division Bench. These petitioners could have claimed the relief claimed in the instant petition also at the time of filing of the earlier petition, which they failed to do. Resultantly, they are taken to have given-up the claim, and are now precluded from filing a separate petition claiming the said relief due to bar created by Order II Rule 2 of the Code of Civil Procedure, 1908. On this account also, the instant petition *qua* them is not maintainable.

9. The judgment of the Supreme Court in *Raman Kumar* case (*supra*), dated 03.07.2023, relied upon by learned counsel for the petitioners has no application to the facts and circumstances of this case. In that matter, the respondents found sixty five employees entitled to regularisation, but only thirty five of them were regularised. This was done because only thirty five vacancies were available at that time. In those circumstances, it was held that the act of regularising only thirty five employees, when all sixty five were found entitled for regularisation, was discriminatory and violative of Article 14 of the Constitution. The appellants before the Court were, accordingly, ordered to be regularised with consequential benefits. These facts have no bearing on the instant petition, as the petitioners already stand regularised in service, though its validity is *sub judice*.

10. Dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

10.08.2023

Ashwani/Mahima

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No