

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
257 **CR-2549-2021 (O&M)**
Date of decision: 12.05.2023

Khadak Singh (since deceased) through LRs & Another **...Petitioner(s)**

Vs.

State of Haryana & Another **...Respondent(s)**

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Mukesh Kumar Verma, Advocate
for the petitioners.

Mr. Amit Kumar Singla, AAG, Haryana

NIDHI GUPTA, J.

Present Revision Petition has been filed by the decree holders seeking setting aside of order dated 14.09.2021 (Annexure P8) passed by learned Civil Judge (Senior Division), Rohtak vide which execution petition filed by the petitioners herein has been disposed of as fully satisfied. By way of this Revision Petition the petitioners also seek setting aside of order dated 20.02.2020 (Annexure P5) passed by DFO, Rohtak whereby office order No.1 dated 08.04.2019 (Annexure P4) regularising services of the petitioners with effect from 01.10.2003 was withdrawn and it was held that petitioners are not entitled for regularisation of their services.

2. Brief facts of the case are that the petitioners filed Civil Suit No.233/1 of 2015 stating therein that they were appointed as Labourers by the respondents/State on daily wages in the years 1993 and 1987 respectively. It is the petitioners' case that they were entitled to be regularised as per notification dated 01.10.2003 of Government of

Haryana. It was submitted that despite numerous instructions issued by the State Government from time to time, and as per State Government policies of 1993, 1996 and 2003 the case of daily wage workers had to be sent for regularisation yet, the petitioners' case was not sent. Accordingly, the petitioners/plaintiffs filed present Suit seeking declaration to the effect that their services be regularised with effect from 01.10.2003, along with all consequential benefits. In the Suit there was a further prayer for seeking a decree of mandatory injunction directing the defendants to release arrears along with interest @ 18% per annum.

3. Vide judgment and decree dated 16.03.2017 (Annexure P1), the above said Civil Suit of the petitioners was dismissed. The petitioners challenged the same by way of Civil Appeal No.42 of 2017 before learned District Judge, Rohtak. Vide judgment and decree dated 18.05.2018 (Annexure P-2), learned Appellate Court allowed the petitioners' appeal. Said judgment and decree dated 18.05.2018 attained finality. The petitioners then filed Execution Petition being EX168 of 2018 dated 07.09.2018 before learned Civil Judge (Senior Division), Rohtak for execution of judgment and decree dated 18.05.2018. Subsequently, order dated 20.02.2020 (Annexure P5) was passed by DFO, Rohtak whereby the petitioners' case for regularisation was rejected. In the Execution Petition, the respondents filed their objections dated 18.02.2021 (Annexure P6), to which the petitioners filed reply dated 26.02.2021 (Annexure P7). Vide impugned order dated

14.09.2021 (Annexure P8), learned Executing Court dismissed the petitioners' execution petition holding that "*the decree stands duly complied with and nothing more remains to be done in the present case.*" Hence, present Revision Petition.

4. Learned counsel for petitioners inter alia submits:

a) that vide order dated 08.04.2019 (Annexure P4), the respondents had initially held the petitioners entitled for regularisation of services and consequential benefits with effect from 01.10.2003. It is submitted that however vide subsequent order dated 20.02.2020 (Annexure P5), the order dated 08.04.2019 was reviewed and the case of the petitioners for regularisation was rejected;

b) that order dated 20.02.2020 is based on muster rolls in which attendance of casual labourers is marked. It is submitted that the said muster rolls were not placed on record before the learned trial Court despite granting sufficient opportunities to the respondents and therefore, case of the petitioners could not have been rejected on the basis of the same;

c) that learned Executing Court has not applied its mind judicially before disposing of the execution petition and has decided the execution superficially without going through the records.

5. No other argument is raised on behalf of the petitioners.

6. I have heard learned counsel for the petitioners.

7. Perusal of record of the case shows that vide judgment and decree dated 18.05.2018 (Annexure P2) passed by learned lower Appellate Court, the petitioners' appeal was decreed in following manner:-

“17. In view of my foregoing discussion, the appeal is allowed with costs. The impugned judgment and decree are set aside. A direction is issued to the respondent-defendants to consider the case of the appellant-plaintiffs for regularisation as per policy, within two months from the date of receipt of this order. Decree sheet be prepared accordingly. Lower court record be sent back with a copy of this judgment. File be consigned to the record room after due compliance.”

(Emphasis supplied)

8. A perusal of above said decree shows that vide the said judgment and decree dated 18.05.2018, a direction was issued to the respondents/defendants to 'consider' the case of the petitioners for regularisation as per policy within two months from the date of receipt of this order. It is therefore crystal clear that vide the judgment and decree under execution, the respondents were called upon to only “consider” the case of the petitioners. It has nowhere been stated that the petitioners have to be regularised or otherwise.

9. It is undisputed that in pursuance to the said judgment and decree, the respondents duly considered the case of the petitioners, and subsequently rejected their claim for regularisation vide order dated 20.02.2020 (Annexure P5). Relevant part of the said order reads as follows:-

“Further, the Hon'ble Supreme Court in SLP filed against Yogesh Tyagi case has ordered to maintain status quo vide

interim order dated 26.11.2018. Thus, keeping in view of the observations made above, I, hereby withdraw the previous office order dated 08.04.2019 and the case of plaintiffs for regularisation is considered afresh, in compliance of judgment and decree dated 18.05.2018 of the Hon'ble District Judge, Rohtak and it is further ordered that the plaintiffs are not entitled for regularisation of their services. I pass the above orders".

10. I find no error whatsoever in the impugned order passed by learned Executing Court holding that the decree stands fully satisfied as vide the judgment and decree under execution respondents were only required to consider the case of the petitioners which direction has been duly complied with. Further, if the petitioners are aggrieved of order dated 20.02.2020 (Annexure P5), needless to say, it is open to the petitioners to file appropriate proceedings in accordance with law, if so advised.

11. In view of above discussion, I find no merit in the present Revision Petition, and the same is accordingly, **dismissed**.

12. Pending application(s) if any stand(s) disposed of.

12.05.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No