

CWP No. 9928 of 2018

2023:PHHC:163947

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(205)

CWP No. 9928 of 2018

Date of Decision : 20.12.2023

Satnarain

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Anil Rathee, Advocate for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance of the petitioner is that he is entitled for consideration for regularization of his services under the Regularization Policy 01.10.2003 along with all consequential benefits which benefits have not been extended to him and that too without any valid justification.

2. As per the facts mentioned in the petition, the petitioner was appointed as a Cook in the Department of Sports on 01.01.1995. Petitioner continued working on the said post till 05.01.2001 when his services were dispensed with. The order dated 05.01.2001 was assailed by the petitioner before the Industrial Tribunal and ultimately, vide Award dated 21.04.2005 (annexure P-1), the termination of the services of the

petitioner vide order dated 05.01.2001 was held to be bad and the petitioner was directed to be reinstated in service with 50% back wages.

3. The Award of the Industrial Tribunal was challenged by the respondents by filing CWP No. 17709 of 2005 titled as ***District Sports and Youth Welfare Officer, Jind Vs. Sat Narain and another***, which was dismissed by this Court on 21.08.2006 holding that the Award dated 21.04.2005 (Annexure P-1) is perfectly valid and legal.

4. Thereafter, the respondents filed Special Leave Petition being SLP (Civil) No. 2667 of 2007 challenging the Award dated 21.04.2005, which was also dismissed on 05.12.2008. Ultimately, as the Award had attained finality, the petitioner was reinstated in service by the respondents on 28.01.2009.

5. The claim of the petitioner in the present petition is that during the period when he remained out service, the respondents issued a Policy dated 01.10.2003 for regularizing the services of the employees, who had completed three years of service as on 30.09.2003, hence, the petitioner was entitled to be considered for regularization of his services under the said Policy, which benefit has not been extended to him.

6. Learned counsel for the respondents submits that as per the Policy dated 01.10.2003, an employee should not only have three years of service to his/her credit as on 30.09.2003 but should also be in service, whereas it is a conceded fact that services of the petitioner were terminated in the year 2001 and he was only reinstated in service in the

year 2009, hence, said Policy dated 01.10.2003 will not be applicable upon the petitioner for consideration for regularization of his services.

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

8. It is a conceded fact that the petitioner was initially appointed on 01.01.1995 and he continued working without there being any break for a period of more than six years when his services were terminated on 05.01.2001. The order dated 05.01.2001 has already been set-aside by the competent court of law by Award dated 21.04.2005 and the petitioner has been reinstated in service with 50% back wages and continuity of service. That being the factual position, it has to be treated as the petitioner never went out of service and is deemed to be in service on the date when the Policy dated 01.10.2003 came into operation.

9. That being the factual position, the respondents are directed to treat the petitioner in service as on 01.10.2003 keeping in view his reinstatement in service with continuity, which Award of the Tribunal has already been upheld by the Hon'ble Supreme Court of India.

10. Keeping in view the above, direction is issued to the respondents to consider the claim of the petitioner under the Regularization Policy dated 01.10.2003 by treating that the petitioner was in service on the said date. In case the petitioner fulfills the other required terms and conditions of the said Policy, appropriate relief be given, otherwise, due reasons for not granting the benefit be conveyed to the petitioner by passing a speaking order.

11. Let the present order be complied within two months of the receipt of copy of this order.

12. Petition is disposed of in above terms.

December 20th, 2023
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No