

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-18274-CWP-2023 in/and
RA-CW-368-2023 in CWP-6185-2019

WAZIR CHAND

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....APPLICANT-RESPONDENTS

Present: Mr. S.K. Verma, Advocate
for the applicant-respondent No.3.

CM-18274-CWP-2023

Application is allowed as prayer for.

Annexures R-1 to R-4 are taken on record, subject to just all exceptions.

RA-CW-368-2023

This is an application under Article 226 of the Constitution of India read with Rule 13, Volume-5, Chapter-1, Part A of the High Court Rules and Orders for review of the order dated 29.03.2023.

The petitioner was stated to be appointed as Cane Kamdar on 16.03.1991 with the respondent-Sugar Mill against the permanent post and thereafter, a proposal was forwarded to the Deputy Commissioner for releasing the services of all the daily wage employees, whereas the services of the petitioner were terminated without assigning any reason and a demand notice was served upon the respondents. Against the said action of the respondents, petitioner had filed a claim statement before the Industrial Tribunal-cum-Labour Court, Rohtak, which passed an award dated 08.06.1996 in favour of the petitioner by reinstating him

with continuity of service and full back wages. Thereafter, the petitioner had

requested respondents to regularize his services in terms of letter dated 20.03.1993 but till date, said request of the petitioner has not been acceded to. On account of not deciding the representation of the petitioner, legal notice in this regard was served but no action has been taken thereon.

The writ petition came to be filed, which was heard by the Single Bench and after going through the facts as well as the submissions made by the counsel for the petitioner therein relying upon a judgment of ***Pawan Kumar and another vs. State of Haryana and others decided on 19.07.2012 passed in CWP-5710-2011***, the writ petition was allowed with a direction to respondents to consider the case of the petitioner in light of the judgment passed by this Court in Pawan Kumar's case (supra), if he is found entitled and to regularize the services w.e.f., his juniors were regularized with all consequential benefits. The said order was adhered to within a period of two months from the date of receipt of certified copy of this order.

Now, a review application came to be filed earlier, which was dismissed as withdrawn with a liberty to file fresh with better particulars and in pursuance thereof, fresh application for review of the order dated 29.03.2023 has come up before this Court today primarily on the ground that the petitioner at the time, when he filed the writ petition before this Court seeking a direction to regularize his services in terms of letter dated 20.03.1993 w.e.f., his juniors were regularized, did not disclose the factum of filing of the civil suit and dismissal of the same by the Civil Judge, Jr. Division, Meham and the factum that the employees namely Joginder, Jivendar and Udam were held to be not junior to the petitioner vide that judgment and decree dated 20.01.2001, which has also been placed on record today before this Court as Annexure R-1 to the instant application. He has now made an attempt to set up a new case altogether urging that since the said

judgment and decree could not be brought to the notice of this Court on or before 29.03.2023, when the civil writ petition was decided as well as no policy-letter dated 20.03.1993 was in existence and further no scope for the petitioner to be regularised by the respondents, as there is neither any post of Cane Kamdar is available in the Sugar Mill-respondent.

The arguments raised today to seek review of the order dated 29.03.2023 are totally unfounded and rather a clever device to get the whole order not only to be reviewed but after setting aside the same to hear the matter afresh relying upon new arguments, which was never brought to the notice of this Court, particularly the judgement and decree dated 20.01.2001 that pertains at least 21 years prior to the date of disposal of the writ petition.

The aforesaid ground taken by the counsel for seeking review would not fall within the ambit of provisions under which the review can be allowed to its own order and hence the application for review is totally misconceived and misdirected and an attempt to usurp the judgment and decree passed earlier on such facts, which were already in his knowledge, which could not be brought to the Court, despite his due diligence, as it was the civil suit preferred by him alone and wrong claim was set up before the learned Single Judge, who decided the writ petition vide order dated 29.03.2023. Having no reasons to interfere with the order or to review the said order dated 29.03.2023, the present application is dismissed.

However, taking a lenient view, this Court refrains from ordering any further cost, as earlier also Rs.5,000/- imposed as cost in the identical application.

06.11.2023
Meenu

(SANDEEP MOUDGIL)
JUDGE