

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(225)

CWP No. 35134 of 2019

Date of Decision : 25.09.2023

Jai Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jagjeet Beniwal, Advocate for
Mr. Ravi Malik, Advocate for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the claim of the petitioner is that he is entitled for the grant of benefits of a regular employee from the date his services have been regularized including the benefit of ACP as well as earned leaves, which benefit has not been granted to him by the respondents.

2. As per the facts mentioned in the petition, the petitioner was appointed as a Conductor on 23.07.2008 and vide order dated 09.11.2011, his services were regularized w.e.f. 21.10.2011. The petitioner claimed regularization from the date of his initial appointment and he filed a writ petition along with the other employee being CWP No. 17357 of 2012, which petition was allowed by this Court and the SLP filed by the respondents was dismissed and in compliance of the order passed by this Court, the respondents vide order dated 09.05.2017 (Annexure P-1)

granted the benefit of regularization of services to the petitioner w.e.f. 23.07.2008 instead of 21.10.2011. Thereafter, the petitioner claimed that once his services have been regularized from 23.07.2008, he is entitled for the benefit of ACP from the said date itself and even, his entitled leave is to be treated from the said date being a regular employee. As the said benefits have not been granted to the petitioner, he filed a writ petition being CWP No. 3416 of 2019, which was disposed of by this Court directing the respondents to pass an appropriate speaking order. In compliance of the said direction, the respondents have rejected the claim of the petitioner vide order dated 18.06.2019 (Annexure P-8), which order is under challenge in the present petition.

3. Learned counsel for the petitioner argues that once the services of the petitioner have been regularized on the basis of the order passed by this Court on 23.07.2008, he is entitled for all the benefits of a regular employee from the said date itself including the benefit of ACP and the entitled leave in a particular year, hence, the impugned order dated 18.06.2019 (Annexure P-8) has been passed without considering the actual facts and is rather, cryptic and non-speaking.

4. Learned counsel for the respondents, on the other hand, submits that once the services of the petitioner were actually regularized in the year 2011 though he has been granted the benefit of antedated promotion from 23.07.2008, all the benefits are liable to be considered from the date of actual order granting the regularization.

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

6. Once, it is a conceded fact that the grant of benefit of regularization from 23.07.2008 was on the basis of the order passed by this Court, the petitioner is held entitled for all the benefits of a regular employee from the said date itself. The petitioner will be treated as a regular employee for all intents and purposes from 23.07.2008 for the grant of ACP as well as for the grant of leave for a regular employee. The order passed by the respondents dated 18.06.2019 (Annexure P-8) is totally cryptic and non-speaking and does not give any explanation as to why, once the petitioner is a regular employee from 23.07.2008, the benefit of ACP as well as leave cannot be granted from the said date.

7. In view of the above, the present petition is allowed. The order dated 18.06.2019 (Annexure P-8) is set-aside and the respondents are directed to consider the petitioner as a regular employee of the department from 23.07.2008 for the purpose of ACP as well as for the grant of leave for which a regular employee is entitled for and appropriate order be passed qua the claim of the petitioner within a period of two months from the date of receipt of copy of this order.

September 25, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No