

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

237

CWP-37474 -2019 (O&M)
Decided on :11.12.2023

Chander Pal

. .Petitioner

Versus

State Of Haryana and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. G. S. Dhaliwal, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance of the petitioner is that though the petitioner was working with the respondents-department since 1984 i.e. for the last about 39 years but his services have not been regularized by the respondents and that too without any valid justification.

2. Learned counsel for the petitioner submits that the petitioner is entitled for regularization of his services under the regularization policy dated 01.10.2003.

3. Learned counsel for the petitioner argues that the benefit of said policy has not been extended to the petitioner only on the ground that in the year 1992, the services of the petitioner were terminated by the respondents vide order dated 08.05.1992, which action of the respondents was challenged by the petitioner before the Labour Court and vide award dated 14.01.2011, the Labour Court rejected the claim of the petitioner which award was

challenged by the petitioner before this Court in CWP No. 24674 of 2012 titled as **Sh. Chanderpal vs. State of Haryana and others** and ultimately, this Court vide order dated 25.01.2018 set-aside the order of termination dated 08.05.1992. as well as the award dated 14.01.2011 passed by the labour Court so as to re-instate the petitioner in service alongwith all consequential benefits.

4. The said order of this Court was challenged by the respondents before LPA bench of this Court by filing LPA No. 844 of 2018 titled as **State of Haryana and another v. Chander Pal and another** and vide order dated 11.12.2018, only modification made by this Court was that the reinstatement of the petitioner was with 50 % back wages to the petitioner instead of 100 % back wages.

5. In pursuance to the order dated 11.12.2018 passed by this Court, the petitioner was reinstated in service but even as of now the petitioner is working on temporary basis with the department concerned.

6. Learned counsel for the petitioner submits that once the petitioner has been given the benefit of continuity in service, the claim of the petitioner for regularization of his service is liable to be considered under the regularization policy dated 01.10.2003 on the ground that the petitioner is deemed to have completed three years of service as on 30.09.2003 and had completed more than 240 days in service in each year in which the petitioner was allowed to be re-instated in service.

7. Learned counsel for the respondents on the other side submits that under the policy dated 01.10.2003, an employee should be in service as on the date when the regularization policy was issued whereas the petitioner was out of service as his services had already been terminated by the respondents vide order dated 08.05.1992.

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

It is a matter of fact that the petitioner was initially appointed as a helper on 21.08.1984 and after a period of eight years, his services were terminated on 08.05.1992 which order has been set aside by this Court vide order dated 25.01.2018 passed in CWP No. 24674-2012 which order has also been upheld by the Division Bench of this Court subject to the modification that the petitioner be given 50 % back wages instead of 100 % back wages as granted by the learned Single Bench

Once, the petitioner has been reinstated in service, it has to be deemed that the petitioner never went out of service. That being the factual position, the instructions dated 01.10.2003, according to which three years of service was required by an employee so as to get the benefit of regularization of services is fulfilled by the petitioner not only this, a bare perusal of the order Annexure P-6 would show that similarly situated employees have already been regularized in service and that too from the year 1985. Once the petitioner is working with the respondents and has rendered more than 39 years of service, it cannot be said that the petitioner needs to remain on a temporary basis for all times to come.

Further, nothing has been brought to the notice of this Court that the petitioner does not fulfill any condition of the policy dated 01.10.2003 except that he was not in service. The said arguments of the respondents cannot be accepted, as once, the petitioner is reinstated in service with continuity he is deemed to be in service for all intents and purposes especially when he has been paid 50 % back wages, the petitioner is entitled for consideration for regularization of his services under the regularization policy dated 01.10.2003 by deeming provision that the petitioner was in

service on 30.09.2003.

The present petition is allowed. The respondents are directed to re-consider the claim of the petitioner for regularization of his services under the regularization policy dated 01.10.2003 and pass an appropriate order within a period of eight weeks from the date of receipt of certified copy of this order.

(HARSIMRAN SINGH SETHI)
JUDGE

11.12.2023

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Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*