

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-37315-2019 (O&M)
Date of decision: 14.12.2023

Lal Singh & Ors.

... Petitioners

VS.

State of Haryana & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. RS Randhawa, Advocate for the petitioners

Mr. Gaurav Jindal, Addl.AG Haryana

Mr. Prateek Mahajan, Advocate for respondent No.3

Sandeep Moudgil, J.

(1). The petitioners have filed the present writ petition invoking the jurisdiction of this Court under Article 226 of the Constitution of India with a prayer for issuance of a writ in the nature of *mandamus* directing the respondents to consider the claim of the petitioners for regularization in the light of the policy decision dated 01.10.2003 along with consequential benefits.

(2). The petitioners were appointed on daily wage basis from May, 1995 to June, 1995 and are continuing as such without any break.

(3). The Haryana Government framed a policy dated 01.10.2003 to the effect that those daily wagers who had completed three years of service as on 30.09.2003 are entitled for regularization. The said policy dated 01.10.2003 was withdrawn vide decision dated 25.04.2007, however, the Government of Haryana vide decision dated 18.06.2014 decided to regularize the services of left over cases.

(4). The petitioners approached the respondents to consider their cases for regularization in the light of the policy decision dated 01.10.2003 in view of decision dated 18.06.2014 but the respondents did not consider the case of the petitioners in the light of policy dated 01.10.2003 and regularized the services of the petitioners w.e.f. 22.08.2014 instead of 01.10.2003.

(5). Learned counsel for the petitioners contends that the petitioners fulfilled all the terms and conditions of the policy as they were inducted in service in the year 1995 i.e. much prior to the cut off date of service i.e. 30.09.2003. He further urged that since the Government itself has decided vide decision dated 18.06.2014 to regularize the left over cases, there is no rhyme or reason for the respondents in not considering the cases of the petitioners under the policy dated 01.10.2003. The relevant extract of the policy dated 01.10.2003 reads as under:-

“2. Daily Wage Employees (Group C):-

That only such daily wage employees who have completed three years service on Group-C posts on 30th September, 2003 and were in service on 30th September, 2003 shall be regularised against their respective Group-C posts, provided they fulfill the requisite qualifications and were originally appointed against vacant posts. Provided further, that they have worked for a minimum period of 240 days in each year and if the break in service of a daily wage employee has been caused for no fault attributable to him, such break period should be condoned unless it is of an extraordinary longer period. However, if the break in service has been caused due to fault of the employee like abandonment of employment, the Government may not condone the same if the period of such break is more than a period of 30 days.

3. Daily-Wage Employees (Group D):-

Only such daily wage employees who have completed three years services on Group D post(s) on 30th September, 2003 and were in service on 30th September, 2003 shall be regularised against their respective Group-D posts provided they fulfill the requisite qualification and were originally appointed against vacant posts. Provided further that they have worked for a minimum period of 240 days in each year and if the break in service of a daily wage employee(s) has been caused for no fault attributable to him, such break period should be condoned unless it is of an extraordinary longer period. However, if the break in service has been caused due to fault of the employee like abandonment of employment, the the Government may not condone the same if the period of such break is more than a period of 30 days.”

(6). It is further argued that that the similarly situated employees who are junior to the petitioners have already been regularized w.e.f. 01.10.2003 and they have been deprived of the same despite fulfilling all requisite conditions of the policy dated 01.10.2003.

(7). Notice of motion was issued on 20.12.2019 and pursuant thereto, reply on behalf of respondent No.2 has been filed through Inderjit Kularia, Additional Municipal Commissioner, Municipal Corporation, Faridabad on 14.10.2020, wherein it has been categorically averred that the petitioners had appeared in walk-in-interview consequent to their applications submitted in pursuance of the advertisement issued by the answering respondent after the State Govt. issued instructions 13.08.2014. It is further submitted that all the petitioners had accepted fresh appointment letters dated 22.08.2014, and accepted all the terms and conditions of the such appointment letter after submitting the affidavit to the effect that they will not

claim any salary or profit in future for the service rendered by them as daily wagers.

(8). It is also submitted that initially all the policies framed in the years 1997 to 2004 stood withdrawn in view of ***Secretary, State of Karnataka vs. Uma Devi, (2006) 4 SCC 1***, however, the said policies were revived on 25.04.2007 notwithstanding this fact, the case of the petitioners could not be considered as they were not appointed against vacant sanctioned post due to non-availability of sanctioned post in the year 2003 and as such, no persons has been regularized, as claimed by the petitioners.

(9). Lastly, learned counsel for respondent No.3 argued that the petitioners were neither employed through employment exchange nor by inviting applications through advertisement and are also not working against a sanctioned post and, therefore, are not entitled to be regularized. He also avers, while seeking dismissal of the writ petition to take protection of a judgment of the Apex Court in **Vibhuti Shankar Pandey vs. State of MP & Ors. 2023 AIR SC 832** to contend that for regularization, initial appointment must be done by the competent authority and there must be a sanctioned post on which the daily rated employee must be working.

(10). No other arguments have been raised on behalf of either of the parties to the present lis.

(11). Heard learned counsel for the parties and gone through the record.

(12). The matter regarding regularization of the daily wage employee in terms of the policy dated 01.10.2003 (Annexure P-1) has already been considered by this Court in **Ram Rattan & Ors. Vs. State of Haryana & Ors.**

(CWP-34585-2019) decided on 19.10.2023 wherein this Court while dealing with similar situation, adjudicated the claim of the petitioners based upon various case laws of the Supreme Court, in favour of the petitioners.

(13). Accordingly, for the detailed reasons already assigned in Ram Rattan & Ors. Case (supra), this writ petition is allowed in same terms and the respondents are directed to consider the case of the petitioners for regularization of service in view of policy dated 01.10.2003 as amended on 10.02.2004 issued by the State Government.

(14). Needless to say that the observations and directions issued in Ram Rattan & Ors. Case (supra) shall be applicable in the case of the present petitioners and the respondents shall be bound to comply with the directions issued therein in the present case as well.

(15). Ordered accordingly.

14.12.2023
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No