

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-37558 -2019 (O&M)
Decided on :11.12.2023

Ram Lakhan

. .Petitioner

Versus

State Of Haryana and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Dharamveer Singh Phour, 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 w.e.f. 01.07.1992 i.e. for the last about 31 years, 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 on 07.04.1996, the services of the petitioner were terminated by the respondents without giving any notice to the petitioner, which action of the respondents was challenged by the petitioner before the Labour Court and vide award dated 14.01.1999, the Labour Court accepted the claim of the petitioner and set-aside the order of termination dated 07.04.1996 so as to re-instate the petitioner in service alongwith consequential benefits with full back wages from the date of demand notice issued to the petitioner i.e. 21.08.1996.

4. The said order of the Labour Court was challenged by the respondents before this Court by filing CWP No. 778 of 2001 titled as **State of Haryana and another v. Ram Lakhan and another** and vide order dated 18.01.2001, the said writ petition filed by the respondents was dismissed and the award dated 14.01.1999 was upheld by Hon'ble Division Bench of this Court.

5. In pursuance to the Award dated 14.01.1999 passed by the Labour 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 07.04.1996.

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

9. It is a matter of fact that the petitioner was initially appointed as a Class IV employee on 01.07.1992 and after a period of four years, his services were terminated on 07.04.1996 which order has been set aside by the Labour Court vide Award dated 14.01.1999 which Award has been

upheld by this Court while dismissing the writ petition filed by the respondents.

10 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 and once the petitioner is working with the respondents and has rendered more than 31 years of service, it cannot be said that the petitioner needs to remain on a temporary basis for all times to come.

11. 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 100 % 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.

12. 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 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