

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-17065 of 1997 (O&M)

Date of decision: 21.02.2024

Jaswant Singh

.....Petitioner

Versus

Municipal Corporation Ludhiana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - None for the petitioner.

Mr. Harsh Aggarwal, Advocate,
for the respondent.

NAMIT KUMAR, J.

1. Petitioner has approached this Court by way of filing the present writ petition under Articles 226/227 of the Constitution of India seeking appropriate directions to the respondent to regularise the services of the petitioner w.e.f. the date persons who were junior to him were regularized and for grant of arrears of salary and allowances at the rates applicable to regular employees from the date of regularization.

2. Brief facts, as have been pleaded in the petition, are that the petitioner joined the services of respondent-Municipal Committee/Corporation, Ludhiana, on 19.07.1974 on the post of Mason on daily wage basis and he continued in service till 14.05.1982, when his services were terminated. The said termination was challenged by the petitioner by raising industrial dispute and having failed before the Labour Court, he approached this Court by way of filing of CWP-5226 of 1984, which was allowed vide judgment dated 26.03.1996

(Annexure P-1) and impugned award dated 14.12.1983 passed by the Labour Court was set aside and Municipal Corporation, Ludhiana, was directed to reinstate the petitioner in service with full back wages and continuity of service within a period of one month from the date of receipt of copy of the order. The letters patent appeal preferred by the respondent bearing LPA No.591 of 1996 was dismissed by the Division Bench of this Court vide order dated 22.11.1996. During the pendency of the letters patent appeal, petitioner was allowed to join his duties vide order dated 11.07.1996 and he joined as such w.e.f. 15.07.1996.

3. During interregnum, other daily wage masons; mates and baildars were granted regular pay scale w.e.f. 01.03.1983 (Annexure P-3). In this manner, masons were granted regular pay scale of Rs.400-660 and it is the case of the petitioner that the said persons were junior to the petitioner and since the petitioner was out of service, therefore, he was not granted the said benefit of regular pay scale of Rs.400-660 w.e.f. 01.03.1983. Vide resolution No.589 dated 09.04.1982, Municipal Corporation, Ludhiana, conceded the demand of the employees for regularization and all those employees who were working on temporary basis or work charge and completed 240 days of service upto 31.05.1982, were to be regularized and the Commissioner, Municipal Corporation, Ludhiana, vide letter dated 21.07.1992 (Annexure P-4) granted approval for regularization of their services and consequently, office order dated 18.09.1992 (Annexure P-5) was issued whereby services of 30 masons were regularised with effect from 01.06.1992 and it is the case of the petitioner that most of them are

junior to him, therefore, after his reinstatement, he submitted representation dated 02.08.1996 (Annexure P-6) for regularization of his services. Since no action was taken on the said representation, therefore, petitioner served legal notice dated 10.12.1996 (Annexure P-7) and since no action was taken on the said legal notice, therefore, petitioner approached this Court by way of filing the instant petition claiming regular pay scale of Rs.400-660 as revised from time to time w.e.f. 01.03.1983 and to regularise his services w.e.f. 01.06.1992 i.e. the date from which persons who were junior to him have been regularised.

4. Short written statement on behalf of the respondent-Municipal Corporation through Sh. D.K. Sharma, Executive Engineer, has been filed, wherein it has been stated that since the petitioner was not there on the roster on the date when services of other work charge baildar/mason/mate/motormate/work mistri (munshi) and chowkidar were regularised, the petitioner, therefore, could not be regularised.

5. Present writ petition was admitted on 19.03.1998 and thereafter the matter was placed before the Lok Adalat of this Court. The petition was disposed of by the Lok Adalat vide order dated 04.09.2001, which reads as under: -

“As per written statement filed, copy of which has now been produced on the record, the case for regularisation of the petitioner was not considered by the respondent Municipal Corporation, Ludhiana, as no representation in this respect was received. Let this writ petition be considered as representation and the Municipal Corporation, Ludhiana, pass appropriate orders within

two months. The petitioner, if aggrieved by the orders, if so advised, can take appropriate steps by getting the writ petition revived. The writ petition is, therefore, disposed of.

Copy of the order be supplied to the counsel for the parties.

*(A.L. BAHRI)
PRESIDENT*

September 04, 2001

*(BALDEV SINGH)
D&SJ(V) Pb.,
MEMBER”*

6. In compliance of the aforesaid order, petitioner was ordered to be regularized in the same manner in which other daily wage employees were regularised in the year 1992 vide order dated 30.01.2002 (Annexure P-8). However, the said order dated 30.01.2002 was modified vide order dated 28.02.2002 (Annexure P-9) changing the date of regularisation to 24.01.2002. Thereafter, petitioner filed CM-2512 of 2002 for revival of the present writ petition, which was allowed and the present writ petition was revived vide order dated 06.03.2002 by the Lok Adalat and the matter was sent to the registry of this Court for its decision on merits.

7. No one has put in appearance on behalf of the petitioner.

8. Learned counsel for the respondent submits that since the services of the petitioner have already been regularised w.e.f. 24.01.2002, vide order dated 28.02.2002 (Annexure P-9), when the Commissioner of the Municipal Corporation, Ludhiana, while agreeing with the opinion of the legal adviser has taken decision to regularise the services of the petitioner and the same is perfectly legal and valid order as the benefit of regularisation has been granted to the petitioner with

effect from the date of the decision taken by the Commissioner for regularisation.

9. I have heard learned counsel for the respondent and perused the record.

10. Admittedly, petitioner joined the respondent-Corporation as mason on daily wage basis on 19.07.1974 and his services were terminated on 14.05.1982. The said termination was set aside by this Court while setting aside award of the Labour Court dated 14.12.1983 and the petitioner was ordered to be reinstated in service with full backwages and continuity in service vide order dated 26.03.1996. Letters patent appeal preferred by the respondent was also dismissed on 22.11.1996. During the pendency of the writ petition, regular pay scale was granted to other co-workers w.e.f. 01.03.1983 and vide order dated 18.09.1992 (Annexure P-5) services of other 30 masons apart from baildars etc. were regularised w.e.f. 01.06.1992 and it is the case of the petitioner that most of those persons whose services were regularised were junior to the petitioner and this fact has not been denied by the respondent in its written statement. Once the services of the persons junior to the petitioner working on post of mason, have been regularised w.e.f. 01.06.1992, then there is no justification not to grant the said benefit to the petitioner and at one point of time, the same was also granted to the petitioner vide order dated 30.01.2002 (Annexure P-8), however, the said order was modified vide order dated 28.02.2002 (Annexure P-9) by changing the date of regularisation to 24.01.2002 from the year 1992 without any reasonable ground. The respondent-

Corporation cannot be permitted to act in violation of Articles 14 and 16 of the Constitution of India. Being a model employer, it is the duty of the Corporation to treat every employee in the same manner. Once the persons junior to the petitioner have been regularised, there is no justification whatsoever not to grant the said benefit to the petitioner. Once the termination of the petitioner was set aside by this Court vide judgment dated 26.03.1996 (Annexure P-1) and he was ordered to be reinstated in service with full backwages and continuity of service, the petitioner cannot be denied the consequential benefits arising therefrom.

11. Consequently, the present writ petition is allowed. Writ of *mandamus* is issued to the respondent to treat the date of regularisation of the petitioner from 01.06.1992 instead of 24.01.2002, the date when persons junior to him were regularised. He shall also be entitled to regular pay scale of Rs.400-660 w.e.f. 01.03.1983, along with subsequent revisions. Let necessary benefits be calculated and released to the petitioner, within a period of three months from the date of receipt of certified copy of this order.

12. Pending application(s), if any, also stands disposed of.

21.02.2024
R.S.

(NAMIT KUMAR)
JUDGE

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