



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.17838 of 2001 (O&M)
Reserved on: 21.11.2024
Pronounced on: 27.11.2024

Parmod Kumar (now deceased) through LRs
.....Petitioner
Versus
State of Haryana and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sandeep Kumar Sharma, Advocate
for Mr. Gurinderpal Singh, Advocate
for the petitioners.

Mr. Ravi Dutt Sharma, DAG, Haryana.

NAMIT KUMAR J. (Oral)

1. The petitioner has invoked the writ jurisdiction of this Court by filing the instant petition under Articles 226/227 of the Constitution of India, seeking a writ of mandamus, directing the respondents to regularize the services of the petitioner as Group-C/Class III employee.
2. The brief facts as have been pleaded in the present petition are that the petitioner was initially appointed as Water Pump Operator-II on 01.12.1989. Thereafter, he continuously worked on muster-roll basis and on 17.07.1993 onwards, he was posted as Clerk and working in the same capacity, however, his services have been regularized vide order dated 06.08.1996 as Mali-cum-Chowkidar (Group-D post) instead of

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Water Pump Operator-II. It is further the case of the petitioner that he along with other employees approached this Court for grant of wages on the basis of equal pay for equal work by filing CWP No.4261 of 1995, titled as “Ghanshyam and others vs State of Haryana and others”. In the said writ petition, the present petitioner was at Serial No.81 and the said petition was allowed on 23.03.1995 and in compliance thereto, the employees who were working on Class-IV/Group D posts were paid Rs.1968/- while employees working on Class-III/Group C posts were paid Rs.2298/-. The petitioner was made payment of Rs.2298/- for the months of August, 1995 to November, 1995, which also shows that the petitioner has been working as Group C employee. For claiming regularization against the post of Water Pump Operator-II, the petitioner served a demand notice (Annexure P-5) dated 10.05.2001, which has been replied by the respondents vide letter dated 20.07.2001, wherein it has been stated that the petitioner was initially engaged on muster-roll as skilled labour but thereafter, he continued on muster-roll as unskilled labour and, therefore, cannot claim regularization as Group-C employee. Hence, the present writ petition.

3. Written statement on behalf of the respondents has been filed wherein it has been stated that the petitioner was initially appointed as Water Pump Operator-II on daily wages in December, 1989 and w.e.f. June, 1990, he was engaged on muster-roll basis on Group D posts, therefore, he is not entitled to seek regularization on Class-III posts as from the very beginning till the date of regularization,



the petitioner had not worked on Class-III post and has not completed three years of service, therefore, he has rightly been regularized against Group D post. Further, it has been stated that the qualification for direct recruitment to the post of Water Pump Operator-II is “I.T.I. certificate in the trade of Motor/Tractor/Diesel Mechanics/Electrician” and the petitioner was not having the requisite qualification, therefore, he cannot be regularized against Class-III post. Copies of the muster-rolls for the period June, 1990 to September, 1990, November, 1990, July, 1991 to August, 1991, April, 1992, June, 1992, September, 1993, December, 1993, September, 1994 to October, 1994 and April, 1995 and June, 1995, have been attached as Annexures R-2 to R-16, respectively.

4. Learned counsel for the petitioner submits that since the petitioner was initially appointed as Water Pump Operator-II, therefore, he is entitled to be regularized on the said post. He further submits that although from June, 1990, he was engaged on muster-roll basis, whereas between 16.07.1993 to 23.07.1993, he was directed to perform flood duty and similarly vide order dated 19.07.1995, he has shown to have been working as Typist. He has placed reliance upon the Division Bench judgment of this Court in **CWP No.19709 of 1998**, titled as **“Harish Chander vs State of Haryana and others”**, decided on 14.09.1999 and Single Bench judgment of this Court in **CWP No.21929 of 2012** and other connected cases, titled as **“Sanjeev Bagga and others vs State of Haryana and others”**, decided on 19.12.2015.

5. Per contra, learned State counsel submits that although the

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petitioner was initially engaged as Water Pump Operator-II in December, 1989, however, from June, 1990 onwards, the petitioner was engaged on muster-roll basis as unskilled labour and has not worked for three years as Water Pump Operator-II and he also does not fulfill the requisite qualification for the said post, therefore, he has rightly been regularized against Group D post.

6. I have heard learned counsel for the parties and perused the record.

7. The petitioner was initially appointed as a Water Pump Operator-II in December, 1989 but subsequently worked on a muster-roll basis, where he was categorized as unskilled labour under Group-D posts. While he was later regularized as Mali-cum-Chowkidar, the petitioner has not provided adequate evidence to support his claim that he worked in Group-C post for the required duration. Furthermore, the petitioner has not demonstrated that his duties or responsibilities corresponded to the role of a Group-C employee, specifically the position of Water Pump Operator-II. The petitioner's claim that he should be regularized in a Group-C post, particularly as a Water Pump Operator-II, is also undermined by his failure to meet the required qualifications for the post. The post of Water Pump Operator-II mandates an I.T.I. certificate in a specific trade, such as Motor/Tractor/Diesel Mechanics or Electrician. The petitioner, however, does not possess the requisite qualification, making him ineligible for regularization to this post. Additionally, the respondents have provided

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muster-roll records, which clearly indicate that the petitioner was engaged as unskilled labour during the period he claims to have been working against Group-C post. These records show that he was consistently paid wages in accordance with his role as a Group-D employee, further supporting the respondents' position that his work did not align with that of a Group-C post.

8. The operative part of the Government Policy dated 07.03.1996, qua regularization of work-charged/casual/daily rated employees, is as follows:-

“That only such daily wagers who have completed five years service on Class III posts on 31st January 1996 and were in service on 31st January 1996 shall be regularised against their respective Class III posts provided they fulfill the requisite qualifications and were originally appointed on class III posts and the posts are available. If the posts are not available, they should get created from the Finance Department or they should be regularised in Group 'D' scale on compassionate grounds like other daily wagers provided further that they have worked for a period of 240 days in each year and the break in service in any year is not more than one month at a time.”

9. The Division Bench judgment of this Court cited by learned counsel for the petitioner in ***Harish Chander’s case (supra)*** is not applicable to the facts of the present case as in that case, the petitioner was employed as a daily-wage Water Pump Operator Grade II (formerly Assistant Pump Operator) in Public Works Department since

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May, 1988 to show that he was performing duties of a Class III post and he also provided evidence such as his service book, verified by Sub-Divisional Engineers and an Executive Engineer, pay bills, and log book extracts to prove he was performing duties of a Water Pump Operator Grade II. Even, the judgment in *Sanjeev Bagga’s case (supra)* is also not applicable in the present case as the facts of the same are also distinguishable.

10. The petitioner’s participation in the Equal Pay for Equal Work case does not establish that he was working as a Group-C employee but rather reflects that he was paid wages similar to those working in Group-C posts for a short period from August, 1995 to November, 1995 only. This, however, does not change the nature of his employment or the duties he performed for the remaining period.

11. The petitioner has already been regularized in a Group-D post, however, considering his lack of necessary qualification for a Group-C post and the absence of evidence showing that he worked in such a capacity, the claim of the petitioner for regularization as Group-C/Class-III employee is without any merit.

12. Accordingly, the present petition is dismissed.

27.11.2024
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(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No