

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

(106)

**CM-2327-CWP-2024 in/and
CWP-7793-2022
Date of Decision : April 03rd 2024**

Sanjeev Kumar

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikas Lochab, Advocate, for the petitioner.

Mr. Harish Nain, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-2327-CWP-2024

Present application has been filed for recalling the order dated 08.01.2024, by which, the present writ petition was dismissed for non-prosecution.

Notice of the application to the counsel opposite.

Mr. Harish Nain, learned Assistant Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondents. He raises no objection for the grant of prayer as raised in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the same is allowed. The order dated 08.01.2024 is recalled and the writ petition is restored to its original number and status.

CWP-7793-2022

1. Present writ petition has been filed for quashing of the order dated 11.03.2022 (Annexure P-9) by which, the order dated 28.01.2022 (Annexure P-8) has been withdrawn whereby, the petitioner was ordered to be regularized w.e.f. 01.03.1997. Further prayer of the petitioner is for directing the respondents No. 1 to 3 to regularize his services w.e.f. 01.08.1998 from which date, the junior of the petitioner had been regularized as well as grant the monetary benefits at par with respondents No. 4 to 7 along with interest at the rate of 18% per annum.

2. Certain facts may be noticed for the correct appreciation of the issue in hand.

3. The petitioner was appointed as a Conductor in Haryana Roadways on 09.12.1993. It may be noticed that as the petitioner was appointed during the strike period and had worked for a period of 11 days and thereafter his services were terminated. After a period of more than eight and half years, the petitioner was again appointed in the year 2004. His services were regularized from the said date and he continues to be in service. Petitioner made a claim that he is entitled for regularization of his services from a date prior to 06.06.2004, which request was accepted by the respondents vide order dated 28.01.2022 and his services were regularized from 01.03.1997.

4. Feeling aggrieved against the said order of regularization of his services from 01.03.1997, the petitioner filed a writ petition i.e. CWP No.20618 of 2021 wherein, direction was given to the respondents to decide his representation dated 05.04.2021 in a time bound manner. In pursuance to the said direction, the respondents have passed an order dated 11.03.2022

(Annexure P-9), which order has been impugned in the present writ petition.

5. Vide impugned order, the respondents have decided that the petitioner is only entitled for regularization of his services from 06.06.2004 only and not from 01.03.1997 as granted to him vide order dated 28.01.2022 (Annexure P-8).

6. Learned counsel for the petitioner argues that the petitioner is entitled for regularization of his services as granted him vide order dated 28.01.2022 (Annexure P-8) from 01.03.1997 and the said benefit has wrongly been withdrawn vide impugned order dated 11.03.2022 (Annexure P-9).

7. Learned counsel for the respondents, on the other hand, submits that the petitioner was not in service from 21.12.1993 till 06.06.2004 and he had only performed the duties for a period of 11 days before his services came to an end in December 1993 hence, once the petitioner was not in service as on 01.03.1997, no benefit of regularization of services could be given to him from the said date and that is why, the order dated 28.01.2022 (Annexure P-8) has rightly been withdrawn by the impugned order dated 11.03.2022 (Annexure P-9).

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

9. As per the facts, the petitioner was appointed on the post of Conductor during the strike period and had only worked for a period of 11 days from 10.12.1993 till 20.12.1993 and thereafter his services were terminated and the petitioner remained out of job upto 06.06.2004. After being appointed in June 2004, his services have been regularized from the date of appointment, which is perfectly valid and legal.

10. Vide order dated 28.01.2022 (Annexure P-8), the petitioner was given antedated regularization of his services from 01.03.1997. The said order has been withdrawn by the impugned order dated 11.03.2022 (Annexure P-9). The order dated 11.03.2022 (Annexure P-9) is perfectly valid. No employee, who was not in service on 01.03.1997, can be granted the regularization of service from the said date. The regularization of the services means that any irregular service which an employee is having, is to be made regular. Once the employee is not in employment on 01.03.1997, how can his services be made regular. Hence, once it has already been conceded that on 01.03.1997, the petitioner was not in service, and he only joined on 06.06.2004, grant of regularization of service from the year 1997 vide order dated 28.01.2022 (Annexure P-8) has rightly been withdrawn by the impugned order dated 11.03.2022 (Annexure P-9).

11. No ground is made out for any interference by this Court in the present writ petition.

12. Dismissed.

April 03rd 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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