

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

124

CWP-7893-2024
Date of Decision :08.04.2024

Sanjeev Kumar and others ...Petitioners

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jagdeep S. Rana, Advocate for the petitioners.

Mr. Harish Nain, AAG, Haryana.
(keeping in view advance copy served)

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, challenge is to impugned orders dated 21.11.2023 (Annexure P-19) as well as order dated 09.01.2024 (Annexure P-20) passed by the respondents, by which, the petitioners have been declined the benefit of regularization of service on completion of 240 days in service.
2. Learned counsel for the petitioners submits that once the benefit of regularization has been extended to the similarly situated employees, the petitioners should have been granted the said benefit, which benefit has been arbitrarily and illegally declined by the respondents.
3. Keeping in view the advance copy served, Mr. Harish Nain, AAG, Haryana appears and submits that service of the petitioners have already been regularized under the regularization policy dated 01.10.2003

and the present petition was filed by the petitioners claiming the relief only in the year 2020 and, hence, keeping in view the judgment of the Division Bench of this Court in *LPA-1662-2015 titled as Sukhbir Singh and others vs. State of Haryana and others, decided on 31.08.2016*, claim of the petitioners has rightly been rejected by the authorities concerned on the basis of the said judgment.

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

5. It is a conceded fact that services of the petitioners have been regularized under the regularization policy dated 01.10.2003 and after the grant of the said benefit, the petitioners never raised any grievance before filing a legal notice in the year 2021 i.e. much after the grant of benefit of regularization in the year 2003. Thereafter a writ petition was filed by the petitioners in the year 2021 and after considering the claim of the petitioners, this Court directed the respondents to consider the claim of the petitioners by passing an appropriate order in accordance with law and the fresh orders have been passed by the respondents, which have been impugned in the present petition.

6. It is clear that petitioners are claiming benefit of antedated regularization of their service in the year 2021 on the ground that similarly situated employees have been granted the benefit of regularization of their service upon completion of 240 days in service which benefit should be extended to them as well.

7. The said question of law has already been decided by the Division bench of this Court in *Sukhbir Singh (supra)*. Relevant paragraphs

of the said judgment are as under:-

5. We have heard learned counsel for the parties and gone through the record. There is no denial to the fact that after regularization of their services w.e.f. 01.04.1993, the appellants woke up first time in the year 2012 and raised claim for retrospective regularization. The said claim was based upon a decision of this Court dated 19.12.2011 rendered in the case of *Jaimal Singh and others Vs. State of Haryana and another (CWP No.6135 of 1998)* where this Court directed the State Government to identify the Depot-wise requirement of post of Ticket Verifiers and sanction the requisite posts so that their services could be regularized. The State Government undertook such exercise and the writ-petitioners in that case were made regular w.e.f. 01.04.1987.

6. It is in the light of these facts that the appellants also wanted the dates of regularization of their services to be antedated.

7. The fact that the appellants took no steps to claim the benefit of Government policy of 1979 for over 12 years is not in dispute. They cannot take the benefit of Jaimal Singh's case (supra) as the writ petitioners in that case had approached this Court in the year 1998 while the appellants remained fence-sitters. Even as per *Jaimal Singh's case*, there was no cutoff date for the purpose of regularization of services. Much was to depend upon as to how many posts were sanctioned in a depot. All the writ petitioners of that case were not made regular w.e.f. 01.04.1987.

8. Assuming that the appellants are similarly placed yet

they lost their right as neither such claim was put up before the competent authority nor they approached any other forum within a reasonable period. In this view of the matter, the rejection of their claim by learned Single Judge on the ground of delay and laches calls for no interference by this Court.”

8. A bare perusal of the above would show that benefit of regularization was claimed upon completion of 240 days after the delay of 15 years, which prayer was rejected by the Division Bench of this Court. Claim of the petitioners is squarely covered by the said judgment against them as in the present case, claim was raised after regularization of their services and that too without raising any grievance for a period of more than 15 years.

9. Learned counsel for the petitioners has not been able to distinguish that judgment in **Sukhbir Singh (supra)** is not applicable upon the case of the petitioner.

10. Learned counsel for the petitioners submits that petitioners are entitled for regularization of their services keeping in view the judgment of this Court in **Piara Singh vs. State of Haryana** wherein, benefit of regularization has been granted under regularization policy of 1979.

11. It may be noticed that judgment in **Piara Singh (supra)** has already been set aside by the Hon’ble Supreme Court of India while passing order in **Civil Appeal No.2979-1992 with connected appeals, titled as State of Haryana vs. Piara Singh, decided on 12.08.1992**. Relevant paragraph of the judgment is as under:-

“19. The High Court has also directed that all those

employees who fall within the definition of "workmen" contained in the [Industrial Disputes Act](#) will also be entitled to regularisation on par with the work-charged employees in whose case it is directed that they should be regularised on completing five years of service in Punjab and four years of service in Haryana. This direction is given in favour of those casual labour and daily wagers who fall within the definition of workmen. In so far as work- charged employees, daily wage workers and casual labourers who do not fall within the definition of workmen are concerned, the High Court had directed their regularization on completion of one year's service. We find this direction as untenable as the direction in the case of adhoc/temporary employees. In so far as the persons belonging to the above categories and who fall within the definition of Workmen are concerned, the terms in which the direction has been given by the High Court cannot be sustained. While we agree that persons belonging to these categories continuing over a number of years have a right to claim regularisation and the authorities are under an obligation to consider their case for regularisation in a fair manner, keeping in view the principles enunciated by this court, the blanket direction given cannot be sustained. We need not, however, pursue this discussion in view of the orders of the Government of Haryana contained in the letter dated 6.4.1990 which provide for regularisation of these persons on completion of ten years. We shall presently notice the contents of the said letter. In view of the same, no further directions are called for at this stage. The Government of Punjab, of course, does not appear to have issued any such orders governing these categories. Accordingly, there shall be a direction to the Government of Punjab to verify the vacancy position in the categories of daily wagers and casual labour and frame a scheme of absorption in a fair and just manner providing for regularisation of these persons, having regard to their length of service and other relevant conditions. As many persons as possible shall be absorbed. The scheme shall be framed within six months from today."

12. Keeping in view the fact that judgment in Piara Singh (supra) has already been set aside by the Hon’ble Supreme Court of India and even otherwise, no such claim can be raised by the petitioners at this stage.

13. Keeping in view the facts and circumstances noticed hereinbefore, no ground for interference by this Court is made out and the writ petition is accordingly dismissed.

April 08, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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