

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 105

Civil Writ Petition No.9473 of 2023
Date of Decision: *April 29, 2024*

Ram Phal

..... PETITIONER(S)

VERSUS

State of Haryana & others

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. Sandeep Lather, Advocate, for the petitioner.

Mr. Sanjeev Kaushik, Additional Advocate General,
Haryana.

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Tribhuvan Dahiya, J (Oral)

The petition has been filed, *inter alia*, seeking a writ of *mandamus* directing the respondents to regularize the services of the petitioner w.e.f. 01.04.1993, i.e., date on which his junior namely Baljit Singh son of Haria was regularised in terms of order dated 02.12.2022, Annexure P-12, passed in LPA No.688/2021 titled *State of Haryana vs. Balwinder Singh & others*.

2 Learned counsel for the petitioner contends that SLPs against the Division Bench judgment in *Balwinder Singh* case, Annexure P-12, has been dismissed by the Supreme Court, vide order dated 09.01.2024. Thereupon, on the issue of regularisation this Court decided a batch of petitions alongwith Civil Writ Petition No.2158 of 2020 titled *Ashish Sharma & others vs. State of Haryana & others*, directing as under:

35. Hence, in light of the above mentioned facts and position of law, the petitioners have a right to seek regularization of their services with effect from the date benefit of regularization of services has been extended to an employee junior to them in case, the petitioners fulfill the terms and conditions of the applicable regularization policy which is in force and the respondent -State is directed to regularize their service in case the petitioners fulfill the qualification/conditions as mentioned in the applicable regularization policy.

36. With respect to the condition of having three years of service with 240 days of work in each year as on the date an employee shall become eligible to claim regularization of his/her services in terms of the regularization policy dated 01.10.2003 or any other regularization policy, the services of the employee from the date of his/her initial appointment shall be considered for the purpose of qualifying the said condition. In case, the petitioners has worked for 240 days in any of the 3 years upto the date of regularization policy, said petitioners will be considered eligible under the policy in which the benefit has been claimed.

37. Further, in case, any employee junior to the petitioners, has been regularized in service, which fact in case is established before the respondent authorities by the petitioners, the said petitioners will get the right of regularization of their services from the date when the services of the employee junior to them has been regularized if the said petitioners fulfill all the requisite of relevant regularization policy and respondent-State shall fix the date of regularization of such employee from the date his/her junior was regularized in service as has been directed in the case of Balwinder Singh (Supra).

38. It is further directed that in case the respondent-State does not have any sanctioned post so as to regularize the services of the petitioners the respondent-State shall create appropriate posts which can be of diminishing nature or otherwise as may be deemed appropriate by the respondent-State in light of position of law observed herein before, keeping in view the decision of the respondent-State dated 21.12.2018.

39. The Respondent-State is hereby directed to examine each and every case of petitioners in terms of the directions given herein before and pass appropriate speaking order. In case, the respondent-State is of the view that any petitioner does not qualify any condition of the applicable regularization policy, the respondent-State shall pass order giving details as to how the petitioner does not qualify the applicable condition in terms of the regularization policy under which the petitioner raised his/her claim. In case it is found that there is no difference between the petitioner and his/her junior whose services had been regularized prior in time, the respondent shall pass an order fixing the date regularizing the services of such petitioner in terms of the directions given herein before i.e. from the date services of the employee junior to the petitioner were regularized.

40. At this stage, learned counsel for the petitioners has raised a plea that in some cases on the ground that the petitioners have been appointed prior to 1996, their claims has been rejected which condition has already been set aside by a co-ordinate bench of this Hon'ble Court in CWP No.1582 of 2018 titled as 'Gobind v. State of Haryana and others', decided on 13.03.2019.

41. Learned counsel for the respondent-State does not dispute the said factum and submits that no claim will be rejected by the respondent- State on the ground that the petitioners claiming benefit of regularization were not appointed prior to the year 1996 as per the aforesaid judgment.

3. At this stage, learned counsel for the petitioner contends that petitioner will be satisfied in case respondents are directed to decide legal notice dated 06.02.2023, Annexure P-13, in terms of the law laid down in *Balwinder Singh* case, in a specific period.

4. Mr. Sanjeev Kaushik, Additional Advocate General, Haryana, submits that the pending legal notice, dated 06.02.2023, will be

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decided by respondent No.2, by passing a speaking order, in the light of judgments mentioned hereinabove, within three months.

5. In view of the statement made, learned counsel for the petitioner has no objection to the petition being disposed of in terms thereof.

6. Ordered accordingly.

(Tribhuvan Dahiya)
Judge

April 29, 2024
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No