

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

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**CWP-17694-2012 (O&M)
Date of Decision :09.04.2024**

Ramesh Kumar**...Petitioner**

Versus

State of Haryana and others**....Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Parminder Singh, Advocate for the petitioner.

Ms. Vibha Tewari, AAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, grievance of the petitioner is that plea of the petitioner for regularization of his services has been rejected by the respondents vide impugned order dated 06.08.2012 (Annexure P/12) hence, the respondents are liable to be directed to grant the benefit of regularization to the petitioner as extended to the similarly situated employees, who were similarly qualified as petitioner.

2. As per the facts mentioned in the petition, the petitioner was appointed as Water Pump Operator-II on 01.09.1981 and continued working as such till 06.12.1989 when the services of the petitioner were terminated, which action of the respondents was challenged by the petitioner before the Labour Court and vide order dated 13.02.1995, the Labour Court set aside the said order of termination of the services of the petitioner and reinstated him in service with continuity in service alongwith full back wages.

Thereafter, respondent-department had filed CWP-8027-1997 challenging

the said award of the Labour Court, which petition was dismissed by this Court vide order dated 01.07.1997, which judgment has already been upheld by the Hon'ble Supreme Court of India on 15.01.1999.

3. Learned counsel for the petitioner contends that while the petitioner was out of service, the respondents had issued a policy for regularization of group-C and group-D employees and the large number of employees, who were similarly situated as the petitioner, were regularized hence, the petitioner is also entitled for the benefit of regularization of his service as Water Pump Operator-II with effect from the date the said benefit of regularization has been granted to the similarly situated employees.

4. Learned counsel for the petitioner submits that respondents themselves have given information under the Right to Information Act, 2005 (Annexure P/11) that similarly situated employees, who were though, matriculate but not having ITI qualification have been regularized in service but still claim of the petitioner for regularization with effect from the date the similarly situated employees have been regularized as Water Pump Operator-II has been declined vide impugned order dated 06.08.2012 (Annexure P/12), which order is liable to be set aside.

5. Learned counsel for the respondents submits that the petitioner is not eligible for regularization of his services as he was not having ITI qualification though, it is a conceded that as of now, the petitioner, who is continuously working since 1981 i.e. from the last 35 years has also obtained ITI qualification.

6. Learned counsel for the respondents further submits that it is a matter of fact that certain matriculate employees have already been

regularized as Water Pump Operator but the same cannot be treated as precedent as only the employees having qualification for the post are entitled to be considered for regularization and in any case, regularization of the services of the petitioner can only be given from the date he obtained the ITI qualification.

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

8. The petitioner is working with the respondent-department from the last 35 years. It is also a matter of fact that certain similarly situated employees, who were matriculate but did not had ITI qualification, have been granted benefit of regularization of service. Once, the similarly situated employees have already been regularized in service, denying the said benefit to the petitioner amounts to discrimination. Once, the respondents regularized the services of the employees, who were having same qualification as petitioner, the said benefit of regularization should have been extended to the petitioner also. No valid justification has come on record to treat the petitioner differently from the employees, who were matriculate but did not have ITI qualification but still their services have already been regularized. In the absence of any justification, act of the respondents in not granting the benefit of regularization to the petitioner on the ground that petitioner did not had ITI qualification amounts to discrimination.

9. Further, keeping in view the judgment passed by this Court in **CWP-18331-1997 titled as Prem Chand vs. State of Haryana and others decided on 02.12.2015** wherein, it has been held that once the employees

have been working on Class-III post of Water Pump Operator from five years, they are entitled for the benefit of regularization of their services. The Court had relied upon the judgment passed in CWP-18974-1998 titled as Abdul Kayyum and another vs. State of Haryana and others decided on 26.09.2000 and a direction was given that all the similarly situated employees are to be granted the benefit of regularization on the post of Water Pump Operator from the date of their initial appointment, which judgment in Prem Chand (supra) has already been complied with by the respondents. Once, while complying with the judgment of this Court in Prem Chand (supra) employees, who were having matriculate qualification have been granted the said benefit of regularization, the said benefit cannot be denied to the petitioner .

10. Keeping in view the fact that it has been established before this Court that the employees, who were matriculate and were not having ITI qualification, have been regularized by the respondents as Water Pump Operator from the date of their initial appointment, denying the said benefit of regularization to the petitioner is discriminatory. Hence, the present petition is allowed. Respondents are directed to regularize the services of the petitioner from the date of his initial appointment.

11. Let the pay of the petitioner be fixed in the regular pay scale. It is made clear that arrears of salary will only be granted from the date of judgment in case of Prem Chand (supra) i.e. 02.12.2015.

12. Civil miscellaneous application pending if any is also disposed of.

April 09, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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