

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-24753-2017 (O&M)
Decided on :23.01.2024

Amar Singh .Petitioner

Versus

State of Haryana and another . . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Ms. Anmolpreet Kaur, Advocate for
Ms. Abha Rathore, Advocate
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the grievance of the petitioner is that he is entitled for regularization of his services w.e.f. the date when services of the candidates junior to him were regularized alongwith consequential benefits such as seniority and fixation of pay.
2. As per the averments made in the present petition, the petitioner was appointed as a conductor in Haryana Rodways Faridabad on 05.05.1997. Thereafter, vide order dated 12.05.1998, the petitioner was suspended and a charge-sheet was issued against him and on the basis of said disciplinary proceedings, he was dismissed from service on 03.03.1999.
3. The order dismissing the petitioner from service was challenged

by the petitioner before the Industrial Tribunal and vide Award dated 10.04.2001, the order dismissing the petitioner from service was held to be bad and the respondents were directed to reinstate the petitioner with continuity in service and 35 % back wages.

4. The said award dated 10.04.2001 attained finality and ultimately, the petitioner was taken back in service on 22.10.2001. Thereafter, the services of the petitioner were also regularized w.e.f 15.12.2005. The prayer of the petitioner in the present petition is that once the petitioner has been given the benefit of continuity in service from the year 1997 and the employees who were junior to him at a relevant time, had already been given the benefit of regularization of their services from the year 1997 onwards, the said benefit of regularization of service be also extended to the petitioner alongwith all consequential benefits such as, seniority and fixation of pay etc.

5. After notice of motion, the respondents have filed the reply wherein they have stated that as the petitioner's services were regularized w.e.f. 15.12.2005, all the benefits of regular pay scale has been extended to him from the said date, hence, no grievance can be raised by the petitioner qua seniority etc. as the petitioner was working on contractual basis when his services were terminated by the respondents.

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

7. It is a matter of fact that the petitioner was appointed as a conductor on 05.05.1997 and he was dismissed from service on 03.03.1999. The order dismissing the petitioner from service has already been held to be bad in law and he was directed to be reinstated in service with all consequential benefits such as continuity of service except back wages

which was allowed by the industrial Tribunal to the tune of 35 %. Once, the benefit of continuity in service has been given to the petitioner, he is to be treated continuing in service for all intents and purpose from the initial date of appointment i.e. 1997. The petitioner is claiming that the service of Conductors, who were junior to the petitioner and were also working on the *ad-hoc* basis in the year 1997, have been regularized w.e.f the date of their initial appointment, which benefit has not been extended to the petitioner, which is causing prejudice to the petitioner as the services of employees junior to the petitioner have been regularized from the date which is much prior to the date when the services of the petitioner were regularized i.e. 15.12.2005.

8. The said grievance of the petitioner is perfectly valid. Once, a conductor who was appointed after the petitioner but was in service and his services have been regularized from the date of his initial appointment, the petitioner is also be treated at par for the grant of said benefit especially when the benefit of continuity in service have already been granted by the Labour Court vide Award dated 10.04.2001 which award has already been attained finality.

9. Keeping in view the above facts and circumstances, the present petition is disposed of with the direction to the respondents that the claim of the petitioner for regularization in service from the date of his initial appointment be considered. In case, any conductor who is similarly situated as the petitioner or his junior has been granted the benefit of regularization of his services from the date prior to 15.12.2005, i.e. the date when the services of the petitioner were regularized, the claim of the petitioner be also considered for regularization his services from the date the employee junior to him has been regularized and an appropriate speaking order will be passed

within a period of 08 weeks from the date of receipt of copy of this order and in case the petitioner is entitled for any relief, the same be also extended to him within a further period of 04 weeks thereafter.

10. It may be noticed that the petitioner will be entitled for fixation of his salary and other benefits in case he is found entitled for any relief. However, arrears will be restricted for a period of three years two months from the date of filing of the present petition.

11. The present petition disposed of in above terms.

12. Pending civil miscellaneous application if any, shall also stand disposed of.

23.01.2024
Riya

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*