



**CM-6929-CWP-2024 in/and  
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**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**(101) CM-6929-CWP-2024 in/and  
CWP-926-2013  
Date of Decision : May 24, 2024**

**Virender Singh .. Petitioner**

**Versus**

**State of Haryana and others .. Respondents**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Ms. Nandita Verma, Advocate, for the petitioner.

Ms. Vibha Tewari, Assistant Advocate General, Haryana.

**HARSIMRAN SINGH SETHI J. (ORAL)**

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Present application has been filed for listing the main writ petition at an early actual date.

Notice of the application to the counsel opposite.

Ms. Vibha Tewari, learned Assistant Advocate General, Haryana, who is present in the Court, accepts notice on behalf of the respondents. She 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 application is allowed and the main writ petition is taken up for hearing today itself.



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1. In the present writ petition, the grievance of the petitioner is that the ante dated benefit of regularization of service extended to the petitioner has wrongly been withdrawn by the respondents vide order dated 27.12.2012 (Annexure P-7). Further prayer of the petitioner is for setting aside the order dated 22.11.2012 (Annexure P-8) by which, the prayer for regularization of the services of the petitioner on completion of 2 years service, has been declined by the General Manager, Haryana Roadways, Hisar.

2. Certain facts needs to be mentioned for the correct appreciation of the issue in hand.

3. The petitioner joined the services as a Conductor on 07.12.1993 on contract basis. His services were regularized on 11.12.1997. As the petitioner was claiming regularization of his services on completion of two years service, feeling aggrieved, the petitioner filed a writ petition being CWP No.12869 of 1999 claiming the regularization of his services on completion of two years of service as per the regularization policy dated 28.07.1994. During the pendency of the writ petition, the respondents passed an order on 29.01.2010 (Annexure P-3) granting the benefit of regularization of the services of the petitioner w.e.f. 07.12.1995 instead of 11.12.1997. The said order of ante date regularization was also complied with and the petitioner's pay was re-fixed and he was also granted the benefit of ACP on the basis of ante dated regularization w.e.f. 07.12.1995.



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4. As the benefit being claimed in CWP No.12869 of 1999, had already been granted to the petitioner, the writ petition was disposed of having been rendered infructuous. Thereafter, without issuing any notice to the petitioner, order dated 29.01.2010 (Annexure P-3) was modified and the ante dated benefit of regularization given to the petitioner was withdrawn by the General Manager, Haryana Roadways, Fatehabad vide impugned order dated 27.12.2012 (Annexure P-7). Similarly, on the basis of order dated 22.11.2012 (Annexure P-8), the General Manager, Haryana Roadways, Hisar also declined the benefit of ante date regularization to the petitioner on the ground that there is no vacancy exist on the said post. These two orders dated 27.12.2012, 22.11.2012 (Annexures P-7 and P-8 respectively) are under challenge in the present writ petition.

5. Learned counsel for the petitioner argues that once the benefit had already been granted to the petitioner of ante dated regularization and keeping in view the said benefit, CWP No.12869 of 1999 filed by the petitioner was disposed of as rendered infructuous, the benefit extended to the petitioner could not have been withdrawn by the respondents without giving any opportunity of hearing to the petitioner hence, the impugned order is liable to be set aside.

4. Learned counsel for the petitioner further argues that on one hand, the benefit of ante date regularization was withdrawn from the petitioner by the respondents vide impugned order dated 27.12.2012 (Annexure P-7) and on the other hand, the respondents themselves passed an order dated 27.07.2012 (Annexure P-14) granting the said benefits to the



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employees who were recruited in service after the petitioner.

5. Learned counsel for the petitioner submits that two contradictory decisions were taken by the respondents. Hence, the withdrawal of the benefit of ante dated regularization which had already been given to the juniors of the petitioner vide order dated 27.07.2012 (Annexure P-14), the impugned orders are liable to be set aside.

6. Learned counsel for the petitioner further submits that the impugned order dated 27.07.2012 (Annexure P-14) was passed by the Department concerned keeping in view the benefit given by this Court in CWP No.4743 of 1998 and LPA No.866 of 2002, which judgment has already been upheld upto the Hon'ble Supreme Court of India hence, it cannot be said that the benefit extended to the petitioner or to the similarly situated employees/juniors of the petitioner vide order dated 27.07.2012 Annexure P-14 was in any way arbitrary or illegal or contrary to the any settled principle of law.

7. Learned counsel for the respondents submits that though, the benefit of ante dated regularization was given to the petitioner but the said benefit was withdrawn by the respondents on the ground that there was no available vacancy on the date when the said benefit was given to the petitioner.

8. Learned counsel for the respondents further submits that as per reply filed by the respondents, the policy dated 28.07.1994 had already been withdrawn on 26.09.1997 hence, the benefit could not have been given to the petitioner of his ante dated regularization hence, the benefit of ante date



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regularization withdrawn by them vide impugned order dated 27.12.2012 (Annexure P-7) is perfectly valid and legal.

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

10. First of all, it is a conceded fact that the benefit of ante date regularization from 07.12.1995 was extended to the petitioner by the respondents themselves. Keeping in view the grant of the said benefit, the writ petition filed by the petitioner being CWP No.12869 of 1999 was rendered infructuous. Once the writ petition was rendered infructuous, the said benefit could not have been withdrawn by the respondents without giving any show cause notice to the petitioner hence, on this account alone, the impugned order cannot be sustained.

11. Even otherwise, the only ground taken by the respondents in the present petition is that by wrongly interpreting the 1994 instructions despite the fact that the petitioner had not completed two years of regular service in the year 1994 when the instructions were issued, he was granted the benefit of ante dated regularization which was rightly withdrawn by the respondents as the petitioner was ineligible for the grant of the said benefit.

12. The said argument cannot be accepted for the reason that in case, an employee appointed on 07.12.1993 is not entitled for ante date regularization, then no one who has been appointed after the petitioner, is entitled for the said benefit. It may be noticed that vide order dated 27.07.2012 Annexure P-14, the employees who are appointed after the petitioner in the year 1993, have been granted the benefit of ante date

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regularization on completion of two years service and that too under the orders of this Court passed in CWP No.4743 of 1998, which order has been upheld in LPA No.866 of 2002 and the said order has already attained finality upto the Hon'ble Supreme Court of India. Once an employee junior to the petitioner, has been granted the benefit of ante date regularization on completion of two years service, the argument of the learned counsel for the respondents that the petitioner was not eligible for the said benefit, cannot be accepted.

13. Learned counsel for the respondents has not been able to dispute the fact that vide order dated 27.07.2012 Annexure P-14, the employees junior to the petitioner have been given the benefit of ante date regularization on completion of two years service, which benefit was also extended to the petitioner but has been withdrawn by the respondents vide impugned order dated 27.12.2012 (Annexure P-7).

14. Keeping in view the above mentioned facts especially when the similar relief has already been granted by the respondents under the order of this Court to the similarly situated employees, which employees continued to get the said benefit even as of now and those employees were appointed after the petitioner, the argument being raised to deny the petitioner the benefit on the ground of ineligibility, cannot be accepted.

15. Keeping in view the above, the impugned orders dated 27.12.2012 (Annexure P-7) and 22.11.2012 (Annexure P-8) are set aside.

The petitioner will be treated as a regular employee keeping in view the order dated 29.01.2010 (Annexure P-3) passed by the respondents for all



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16. The present writ petition is allowed in above terms.

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

: Yes/No