

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

(220)

CWP-22598-2021

Date of Decision : January 31, 2024

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

Present: Mr. Sandeep Thakan, Advocate, for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance being raised by the petitioner is that the petitioner is entitled for the arrears of salary w.e.f. 27.05.1993 till 30.09.2019 along with interest on the ground that upon regularization of the service of the petitioner with retrospective effect, the petitioner is to be given all the benefits including arrears of salary with interest.

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

3. The petitioner was appointed on daily wage basis in the year 1981 on the post of Mali-cum-Beldar. His services were terminated by the respondents, which action was challenged by the petitioner before the Labour Court. While the petitioner was out of service, the respondent-State

had issued a policy for regularization of the services of the employees and those who fulfilled the criteria, their services were regularized but as the petitioner's services have been terminated, no benefit of the said policy was granted to the petitioner. The termination order was set aside by the Labour Court in the year 2005 and the petitioner was reinstated in service.

4. The petitioner claimed the benefit of regularization of services on the ground that the employees junior to the petitioner, who were in service in the year 1993 and their services were regularized hence, the same should be granted to the petitioner.

5. As the benefit claimed was not being granted, the petitioner filed CWP No.5710 of 2011, which came to be allowed by the Coordinate Bench on 19.07.2012, a copy of which has been appended as Annexure P-2. The direction was given to regularize the services of the petitioner from the date when the juniors were regularized. Against the said judgment, LPA was filed, which was dismissed by the Division Bench while passing order in LPA No.190 of 2013 on 09.09.2013 (Annexure P-3).

6. After the decision, the respondents realize that the services of the junior, on the basis of which the petitioner was claiming regularization, was wrongly recorded in the order passed by the Coordinate Bench dated 19.07.2012 (Annexure P-2), an application was filed for correction of the same, which application was dismissed by the Coordinate Bench on 16.01.2015, a copy of which has been appended with this petition as Annexure P-4. The said order was challenged in LPA No.1407 of 2015, which came to be decided on 27.04.2016 wherein, it has been mentioned that the petitioner's services be regularized w.e.f. the date persons junior to him were regularized but notionally.

7. Aggrieved against the said decision, State filed an appeal which was dismissed with the observation that the benefit given to the respondents should be at par with the juniors.

8. Thereafter, the respondents passed an order on 13.03.2018 (Annexure P-7) regularizing the services of the petitioner from 01.10.1993 but notionally.

9. In the present writ petition, the petitioner is claiming that once the services of the petitioner have been regularized with retrospective effect from the year 1993, the petitioner is also entitled for all the benefit of arrears along with interest.

10. Learned counsel for the petitioner argues that once the Hon'ble Supreme Court of India while passing order in appeal preferred by the State, directed that the petitioners are to be given the benefit as given to the juniors, the said observation means that the judgment of the Division Bench dated 27.04.2016 a copy of which has been appended as Annexure P-5 to grant the petitioner benefit notionally, stands modified.

11. The said arguments of the learned counsel for the petitioner is not correct.

12. The benefit which was being sought by the petitioner was retrospective regularization of his services. The Division Bench granted the benefit of retrospective regularization from the date junior was granted but notionally. As the State was not happy with the said decision, the appeal was preferred which was dismissed with the observation that the petitioner is entitled for the same relief as granted to the others. The said order has to mean that the relief was qua the grant of regularization of services with retrospective effect. The interpretation of that order being done by the petitioner to mean that the judgment of the Division Bench dated

27.04.2016 (Annexure P-5) by which the retrospective regularization was granted notionally, stands modified, is not correct.

13. As per the respondents, the benefit of regularization has already been extended to the petitioner at par with the junior.

14. Keeping in view the above, no further benefit is to be given to the petitioner keeping in view the judgment of the Division Bench dated 27.04.2016 according to which, the ante dated regularization was only to be given on notional basis and without arrears.

15. No ground is made out for any interference by this Court in the present case.

16. Dismissed.

January 31, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No