



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

(Sr. No. 106)

LPA No.2007 of 2024 (O&M)

Date of decision: 28.08.2024

**Haryana Urban Development Authority (now Haryana Shehri Vikas
Pradhikaran) and others**

..... Appellants

Versus

Suresh Kumar

..... Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Deepak Balyan, Advocate for the appellants.

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DEEPAK SIBAL, J. (Oral)

(1) The present intra court appeal is directed against the judgment dated 08.11.2023 passed by a learned Single Judge of this Court allowing the respondent's writ petition through which he had sought regularization of his services in terms of the regularization policy of the Govt. of Haryana dated 01.10.2003, amended on 10.02.2004 (for short – 2003 policy), along with all consequential benefits.

(2) First a few relevant facts.

(3) In January, 1995, the respondent joined, on daily wage basis, as a Class-IV employee in the office of the Executive Engineer, HUDA, Division-1, Faridabad. In the year 2003, the State issued the 2003 policy through which services of daily wagers could be regularized in terms of the



conditions contained therein. The 2003 policy was applicable on the appellants. The respondent's case was considered for regularization of his services but rejected as according to the appellants there was a break of 39 days in his service from 12.01.2001 to 19.02.2001. Nonetheless, the respondent continued to serve the appellant as a Class-IV employee on daily wage basis.

(4) In the year 2010, the respondent petitioned this Court through CWP No.18145 of 2010 seeking therein regularization of his services in terms of 2003 policy which petition of his was disposed of on 06.10.2010 with a direction to the appellants to take a decision on the respondent's request for regularization of his services in terms of the law laid down by the Supreme Court in ***Secretary, State of Karnataka and others Vs. Uma Devi and others, (2006) 4 SCC 1***. The appellants considered the respondent's prayer but through order dated 13.04.2011 again rejected his claim for regularization of his services on the same ground as earlier which was that he had a gap in service from 12.01.2001 to 19.02.2001 and therefore, not covered under the 2003 policy. This triggered the second round of litigation at the respondent's behest as CWP No.2317 of 2012 was filed by him before this Court through which he not only sought quashing of the aforesaid order dated 13.04.2011 but also issuance of directions to the appellants to regularize his services under the 2003 policy, with all consequential benefits. While the respondent's said writ petition was pending, the State of Haryana issued another policy dated 21.10.2014 (for short – 2014 policy) through which regularization of services of Class-III and IV employees who are working on contractual/daily wages basis in the State could be regularized.



The 2014 policy was also applicable to the employees of the appellants. The respondent's case for regularization of his services was favourably considered by the appellants under the 2014 policy and his services were regularized with effect from 18.06.2014. This led to the third round of litigation at the respondent's behest as now he filed before this Court CWP No.24400 of 2016 through which he challenged the action of the appellants to regularize his services with effect from 18.06.2014 as according to him his services should have been regularized under the 2003 policy. After examining the respondent's case, a learned Single Judge of this Court was of the opinion that the 39 days break period from 12.01.2001 to 19.02.2001 in the respondent's service, on the basis whereof the appellants had denied the respondent's claim for regularization under 2003 policy, had no legs to stand as it was found that from 25.01.2001 to 09.02.2001 the respondent had, on the strength of a medical certificate, duly sought and got medical leave and therefore, the break in his service which was covered under the approved medical leave could and should have not been taken against the respondent. According to the learned Single Judge the remainder of the break in service which was of only 23 days was not of an extraordinary long period and therefore, should have been condoned in terms of the 2003 policy. Resultantly, the learned Single Judge allowed the respondent's petition with a direction to the appellants to regularize his services under the 2003 policy, with all consequential benefits. Interest @ 6% per annum on the arrears was also granted. Such judgment of the learned Single Judge is the subject matter of challenge through the instant intra court appeal.

(5) Learned counsel for the appellants has been heard.



(6) The relevant portion of 2003 policy reads as under :-

“3. Daily - Wage Employees (Group-D) :-

Only such daily wage employees who have completed three years service on Group-D posts on 30th September, 2003 and were in service on 30th September, 2003 shall be regularized against their respective Group-D posts, provided they fulfil the requisite qualifications and were originally appointed against vacant posts. Provided further that they have worked for a minimum period of 240 days in each year and if the break in service of a daily wage employee(s) has been caused for no fault attributable to him, such break period should be condoned unless it is of an extraordinary longer period. However, if the break in service has been caused due to fault of the employee like abandonment of employment, the Government may not condone the same if the period of such break is more than a period of 30 days.”

(7) A perusal of the afore quoted portion of the 2003 policy clearly reveals that services of Group-D daily wage employees who complete 03 years of service on 30th September, 2003 and were in service on 30th September, 2003 were entitled to be regularized against their respective posts. The only conditions carved out were that these employees should have worked for a minimum period of 240 days in each of the 03 years preceding 30th September 2003 and that there should be no break in their service for an extraordinary long period. The 2003 policy further provided that if the break in service was not on account of the fault of the employee, then the same may be condoned.

(8) It is undisputed that as on 30.09.2003 the respondent was in service of the appellants as a Group-D employee, on daily wage basis and that prior thereto he also had 03 years of service to his credit.



(9) The break of 39 days in the respondent's service which is the only reason why the appellants have denied to regularize his services under the 2003 policy was from 12.01.2001 to 19.02.2001. However, learned counsel for the appellants fairly admits that within this period *i.e.* from 25.01.2001 to 09.02.2001 the respondent was on approved medical leave. That being so, in terms of the 2003 policy, such break in service was liable to be condoned as for the same the respondent could not be faulted. The remaining period of break in service being of only 23 days can by no stretch of imagination be considered as an extraordinary long period and therefore, could and should also have been condoned especially keeping in view the objects behind the 2003 policy.

(10) In the light of the above discussion, we find no reason to interfere with the impugned judgment.

(11) Dismissed.

(12) All pending miscellaneous application(s), if any, also stand disposed of.

(DEEPAK SIBAL)
JUDGE

28.08.2024
sunil yadav

(DEEPAK MANCHANDA)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No