

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(109) LPA-773-2022 (O&M)
Decided on : 16.04.2024

Raghbir Singh & others
.....Appellant(s)

Versus

State of Haryana & others
.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE VIKAS SURI

Present: Mr.Nischal Chetanya Manchanda, Advocate
for the appellants.

Mr.Deepak Balyan, Addl.A.G., Haryana.

Mr.Pawan Kumar Mutneja, Sr.Advocate
with Mr.Akshay Goel, Advocate, for respondent No.3.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-1851-LPA-2022

1. Application for condoning the delay of 49 days in filing the appeal is allowed in view of the averments made in the application, duly supported by affidavit of applicant-appellant No.5. Delay of 49 days in filing the appeal is hereby condoned.

2. CM stands disposed of.

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3. Consideration in the present appeal is to the judgment dated 22.09.2021 passed by the Learned Single Judge in CWP-9021-2017 whereby the writ petition filed by the appellants was dismissed and their

claim for regularization with respondent no.3-Sugar Mill was rejected. upholding the order dated 25.07.2017 (Annexure P-6) passed by the State whereby the request for change of date of birth had been rejected.

4. The reasoning which weighed with the Learned Single Judge was that the writ petitioners were working in the Sugar Mill which is a seasonal industry and it does not bestow upon them any right for being made regular employees in the absence of any specific policy made by the Government or the Controlling Authority wherein there can be regularization of service and several factors have to be taken into consideration regarding the availability of the posts and the educational qualifications. The writ petitioners could not seek the benefit merely on account of the fact that they were working with the respondent-Sugar Mill, which is a seasonal industry, for a long time as the requirement would vary from time to time and the additional work force could be hired by way of outsourcing. The writ petitioners had thus no vested right to be treated as regular employees. Resultantly, challenge raised to the circular dated 16.06.2016 (Annexure P-2) was rejected. Similarly, the prayer for issuance of directions for staying implementation of the order dated 28.01.2015 passed in CWP-17837-2006 titled *Bhim Sen & others Vs. State of Haryana & others*, wherein adjustment of Ex-employees of Bhuna Cooperative Sugar Mills in other Sugar Mills was rejected on the ground that the writ jurisdiction is to be exercised in exceptional cases and not in routine.

5. Counsel for the appellants has submitted that it is the basic case of the writ petitioners that they have been working since 1989/1995.

Reliance is also placed upon the policy of the State dated 29.07.2011 (Annexure P-5) for regularization.

6. It is pertinent to mention that the stand of the respondent-Sugar Mill was that the policy was neither applicable to the writ petitioners nor to the Cooperative Sugar Mills. It is the case of the respondent-Sugar Mill that it is a seasonal industry with its season running from October/November/December to March/April/May and also that the mill retain a very small regular staff. The writ petitioners were never engaged through proper procedure and they cannot seek the benefit of regularization in the absence of any policy and the writ petition itself was not maintainable.

7. The law stands settled by the Apex Court regarding the issue of regularization and it has been held that there is no legal vested right for regularization in the absence of a policy and the Courts could not direct regularization. In **Anandi Mukta Sadguru Shree Mukta Jeevandasswasi Suvarna Jaya Vs. V.R.Rudani & others, AIR 1989 SC 1607**, the issue arose as to the power of the High Courts to issue writ of mandamus and it was found that it is a very wide remedy which must be easily available to reach injustice wherever it is found. However, in **Secretary, State of Karnataka & others Vs. Uma Devi & others, (2006) 4 SCC 1** regarding the right of regularization of a Government servant was duly considered and it was held that a mandamus could not be issued in favour of the employee for regularization in the absence of any enforceable legal right. The said view was followed in **Official Liquidator Vs. Dayanand & others, (2008) 10 SCC 1** and rather it was noticed that High Courts were issuing contrary directions inspite of the

law laid down in Uma Devi (supra) and the earlier judgment of the Apex Court in **U.P.State Electricity Board Vs. Pooran Chandra Pandey, (2007) 11 SCC 92** was held to be obiter dicta.

8. It is to be noticed that in the present case also, challenge is to the circular dated 16.06.2016 (Annexure P-2) whereby approval had been granted for specific period from 08.04.2016 upto 30.06.2016 for the employees working in the Security Department of the Mill and another set of personnel working in Sanitation and Gardening Section as special case and with further direction that the Mill would outsource these services in future and no approval would be granted in future. The subject was regarding recalling of the seasonal/Daily Wage staff. It is thus apparent that directions were issued by the Haryana State Federation of Cooperative Sugar Mills Ltd. through the Managing Director that recruitment should be done by way of outsourcing which is subject matter of challenge.

9. Reliance has rightly been noticed regarding the seasonal industry and the staff being mainly deployed during the season from October to May and employing a very small regular staff to meet the exigencies during the rest of the year. It is settled position that regularization would entail financial outlays and liabilities upon the Mill and it is a policy decision and it is not for the Court to exercise its extraordinary writ jurisdiction to impose demand of the employees who are seeking the benefit of regularization. The availability of the policy has been specifically denied since it would be applicable to the Group-C and Group-D employees of the Government. Nothing has been shown that the policy has been adopted by the Sugar Mill on the basis of which the right to seek mandamus could have been invoked. In such circumstances, we

are of the considered opinion that the view which has been taken by the Learned Single Judge does not suffer from any infirmity which would warrant interference by this Court.

10. Resultantly, in view of the above discussion, the present appeal is hereby dismissed. All pending application(s) also stand disposed of.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

16.04.2024
Sailesh

(VIKAS SURI)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No