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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-2521-2024 (O&M)
Date of decision : 18.10.2024

State of Haryana and others ...Appellants

Vs.

Kulbir Singh and others ...Respondents

CORAM: HON’BLE MR. JUSTICE DEEPAK SIBAL
HON’BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Sanjeev Kaushik, Addl.A.G.Haryana.

DEEPAK MANCHANDA, J.

1. Through present intra-court appeal, the appellants have assailed the impugned judgment dated 01.05.2024 passed by the learned Single Judge in CWP-17750-2000, titled as “Kuldeep Singh Vs. State of Haryana and others” where learned Single Judge allowed the said writ petition and directed the appellants to regularize the services of respondent in terms of regularization policy dated 07.03.1996, modified on 18.03.1996 by giving all consequential benefits along with monetary benefits with interest @ 6% per annum from the date of regularization till actual payment within a period of four weeks of receiving a certified copy of the impugned judgment.

2. The facts emanating from the present Intra Court appeal are that respondent joined appellant-department as daily wager on 01.06.1993 and sought regularization in view of the policy dated 07.03.1996 (Annexure P-1), where as per the said policy casual/daily wager, who had completed five years of continuous service on 31.01.1996 with minimum period of 240 days in each



year were entitled for regularization of their services. Vide notification dated 18.03.1996 (Annexure P-2), the said condition requiring five years minimum service was relaxed to three years where respondent was not eligible as he had not completed three years service on 31.01.1996. During the pendency of the writ petition respondent filed an affidavit dated 05.08.2023 by giving details of total number of days he had worked as daily wager from the date of his engagement i.e. 01.06.1993 to 31.01.1996 and the said affidavit revealed that respondent rendered 240 days service in each calendar year preceding 31.01.1996 i.e 245 days for the period 01.06.1993 to 31.01.1994 and for all days in each of the following two years, 01.02.1994 to 31.01.1995 and 01.01.1995 to 01.01.1996. Accordingly, he fulfilled the requirement for regularization. As per the pleadings, the service of respondent were regularized pursuant to subsequent policy of regularization w.e.f.01.10.2003, but respondent claimed that his service should have been regularized in light of policy of regularization, dated 07.03.1996, modified on 18.03.1996. Learned Single Judge after considering the continuity of service from 01.06.1993 to 31.01.1996 and calculating the period of 240 days in the preceding three years held that respondent was entitled to be regularized in terms of the said policy. Accordingly, the writ petition filed by the respondent was allowed vide impugned judgment dated 01.05.2024, which has been challenged through present Intra Court appeal has been preferred by the appellants.

3. Learned counsel for the appellants contends that respondent's total service is only of 02 years and 08 months, which is less than three years and therefore, his service cannot be regularized under 1996 policy and the learned Single Judge simplicitor relying upon the averments made by respondent



wrongly allowed the writ petition. Learned counsel for the appellants further contends that learned Single Judge did not appreciate that respondent was regularized during pendency of the writ petition in light of 2003 policy w.e.f.01.10.2003 as he fulfilled required conditions in the said policy.

4. We have heard learned counsel for the appellants.
5. A bare perusal of the impugned judgment would show that learned Single Judge allowed the writ petition relying upon the Division Bench’s judgment of this Court rendered in CWP-17367-2001, titled as “*Dharam Singh Vs. State of Haryana and others*” where similar issue came for consideration in terms of the policy dated 07.03.1996, and it was held that if a person had actually worked for 240 days in a year, then it would be deemed that he has worked for full one year and in such a situation when the policy provided that a person was entitled to the regularization of the service if he had completed 3 years of service as on 31.01.1996, then it would actually mean that a year was deemed to be completed if a person had actually served for 240 days. Endorsing the aforesaid view, learned Single Judge allowed the writ petition in terms of the regularization policy dated 07.03.1996 by giving all consequential benefits. The judgment also reveals that learned Single Judge considered the affidavit dated 05.08.2023 filed by the respondent where details of total number of days for which he had worked were mentioned and the same are given below:-

01.06.1993 to 31.01.1994	245 days
01.02.1994 to 31.01.1995	Full one year
01.01.1995 to 01.01.1996	Full one year



6. Accordingly, the respondent fulfilled the eligibility requirement for regularization. Learned Single Judge further clarified that respondent worked for more than 240 days in each of the three years prior to 31.01.1996 and the requirement of the policy was that the casual/daily wage employee to work for minimum 240 days in a calendar year and will be regularized if worked to 240 days in each year prior to 31.01.1996, which means three years' work period prior to this date is to be seen and the reverse count is to begin from 30.01.1996, so after count, learned Single Judge came to the conclusion that respondent duly worked for the requisite number of days during preceding three years, therefore, was entitled for regularization in terms of the policy, which could not have been denied to him. The relevant clause of the policy is reproduced here below:-

“Causal/Daily Rated Employees

The casual and daily rated employees who have completed three years service on 31st January, 1996 and were in service on 31st January, 1996, shall be regularised provided they have worked for a minimum period of 240 days in each year and break in service in any year is not more than one months at a time, such employee who have worked on different posts having different designation in the same departments shall also be regularised if they fulfill other conditions.....”

7. Further learned Single Judge has also relied upon the judgment of Division Bench rendered in “**Ram Dhari Vs. The Chief Wild Life Warden, Haryana**”, 1996(1) SCT 615 and Dharam Singh's case (supra) the relevant paragraphs of the judgment are extracted below:-

“8. We do not find any substance in the contention raised by the counsel for the respondents. In the clarificatory instructions Annexure P4, respondents themselves clarified that daily wagers employees who had completed 240 days in a year would be considered for regularisation provided that the break in service is not more than 30 days during the year. Petitioner had completed



five years of uninterrupted service in the years from 1988 to 1993 completing 240 days in each of the five years preceding 31.3.1993 and, therefore, would be deemed to have completed the condition of completion of service for five years as well as for working in each year for 240 days.

9. By issuing the clarification Annexure P4 to the earlier instructions Annexure P3 by a deeming fiction, the State Govt. has provided that a workman who has rendered more than 240 days of service in a year then he will be deemed to have completed on year's service. Supreme Court of India in **Mohan Lal v. The Management of M/s Bharat Electronics Ltd.** AIR 1981 Supreme Court 1253, while interpreting the word 'continuous service in Section 25B of the Industrial Disputes Act, 1947, where a workman had put in 240 days of service within the period of 12 calendar months for the purpose of retrenchment held as under:-

"Sub-sections (1) and (2) of Section 25-B introduce a deeming fiction, as to in what circumstances a workman could be said to be in continuous service for the purposes of Chapter V-A. Sub-section (1) provides a deeming fiction that where a workman is in service for a certain period he shall be deemed to be in continuous service for that period even if service is interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal or a lockout or a cessation of work which is not due to any fault on the part of the workman. Situations such as sickness, authorised leave, an accident, a strike not illegal, a lockout or a cessation of work would ipso facto interrupt a service. These interruptions have to be ignored to treat the workman in uninterrupted service and such service interrupted on account of the aforementioned causes which could be deemed to be uninterrupted would be continuous service for the period for which the workman has been in service. Sub-section (2) incorporates another deeming fiction for an entirely different situation, It comprehends a situation where a workman is not in continuous service within the meaning of sub-section (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer for a period of one year or six months, as the case may be, if the workman during the period of 12 calendar months just preceding the date with reference to which calculation is to be made, has actually worked under that employer for not less than 240 days. Sub-section (2) specifically comprehends a situation where a workman is not in continuous service as per the deeming fiction indicated in sub-section (1) for a period of one year or six months. In such case he is deemed to be in continuous service for a period of one year if he satisfied the conditions in Clause (1) of sub-section (2)".



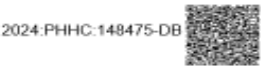
10. *In this case petitioner had put in 240 days of service in each of the preceding five years prior to 31.3.1993 without any interruption and would be deemed to have completed five years of service and entitled to be regularised in terms of the instructions Annexure P3 read with the subsequent clarification issued vide Annexure P4.”*

8. In CWP-17367-2001 titled as “**Dharam Singh Vs. State of Haryana and others**”, the relevant paragraphs of the judgment are extracted below:-

“A perusal of the aforesaid policy makes it abundantly clear that if a person had actually worked for 240 days in a year, then it would be deemed that he has worked for full one year and in such a situation when the policy provided that a person was entitled to the regularisation of his service if he had completed 3 years of service as on January 31, 1996, then it would actually mean that a year was deemed to be completed if a person had actually served for 240 days. Taking the aforesaid view, we find that the petitioners had been appointed w.e.f. April 1, 1993 and had been continuously working as such without any break till the enforcement of the policies Annexures P/1 and P/2 and were in actual employment also on January 31, 1996. Thus, the petitioners would be taken to have worked for 240 days in the year 1993, for whole year in the year 1994 and similarly again for the whole year of 1995 and were in actual service on January 31, 1996. Therefore, the petitioners would be taken to have served for 3 years and are covered by the policies Annexures P/1 and P/2.

The view we have taken to interpret the aforesaid policies finds full support from a Division Bench Judgment of this Court in Ram Dhari V. The Chief Wild Life Warden, 1996 (1) Service Cases Today 615.”

9. In view of the findings given by the learned Single Judge, the plea taken by the appellants is not acceptable as learned Single Judge has rightly allowed the writ petition in light of the policy as well as the settled principles of law cited in the impugned judgment. Though the prayer of appellants for restricting the arrears to 38 months is worth consideration. Since this Court is also of the same view that the monetary benefits granted with interest @ 6% per annum from the date of regularization to actual payment is on higher side i.e. from 01.06.1993, we are accepting the prayer of the learned counsel for the



appellants for restricting the arrears/benefits to 38 months prior to filing of the respondent’s writ petition.

- 10. Consequently, the appeal fails and same is dismissed.
- 11. Since the main case is dismissed, pending application(s), if any, have also rendered infructuous.

(DEEPAK SIBAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

18.10.2024
vanita

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