

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

1. CWP No. 31669-2018

Prithvi Singh	versus	...Petitioner
State of Haryana and others		...Respondents

2. CWP No.170-2019

Ved Prakash	versus	...Petitioner
State of Haryana and others		...Respondents

3. CWP No. 342-2019

Mani Ram	versus	...Petitioner
State of Haryana and others		...Respondents

Date of decision : 27.02.2020

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vikram Sheoran, Advocate for
Mr. Nihal S. Choudhary, Advocate
for the petitioner (s).

Mr. Hitesh Pandit, Addl. A.G. Haryana

RITU BAHRI, J.

This order shall dispose of the above three petitions as common question of facts are involved in the above petitions wherein petitioners are seeking direction to the respondents to regularise their services in terms of policy dated 01.10.2003 or from the date the services of junior to them, have been regularized. However, for facility of reference the facts are being taken from CWP No. 170-2019.

Petitioner was appointed as Labourer on daily wages basis on 01.01.1999 by the respondent-department. His services were terminated on 01.05.2000 and he raised Industrial dispute before the Labour Court and the Labour Court vide award dated 11.07.2006 (P-1) passed the award in his favour and the petitioner was held entitled to reinstatement with continuity of service consequential benefits along with 50% back wages from 23.05.2001. The award has attained finality as no appeal was filed by the respondent-department against award.

After reinstatement in service, the petitioner made claim for regularization in view of policy dated 01.10.2003 (P-2), vide representation dated 11.06.2006 (P-4).

On notice of the petition, a reply was filed on behalf of respondent Nos. 1 to 3 relying upon judgment dated 31.05.2018 passed in CWP No. 17206-2014 whereby the Court has struck down the regularisation policies framed by the Government providing regularization of services of ad hoc/contract/daily wages employees.

Learned State counsel submits that the services of petitioner cannot be considered for regularization as all the regularization policies are put on hold by the Government. Learned State counsel has further argued that the petitioner is claiming regularization on the ground that services of junior to the petitioner has been regularized but no person junior to the petitioner has been given regularization and thus the present petition deserves to be dismissed. It has further been argued that the petitioner has not completed 240 days in a calendar year.

Heard learned counsel for the parties.

The question for consideration before this Court would be that

once the petitioner has been reinstated in service, thereafter, whether the petitioner is entitled for regularization of his service, as the petitioner has been working in the department since 1999.

The writ petition deserves to be allowed in view of decision passed by this Court in the case of **State of Haryana and others vs. Mohammad Farookh and another, passed in LPA No. 836-2013, decided on 30.04.2013** wherein this Court was considering a case of regularization where reinstatement had been ordered by way of labour Court Award. The termination of workmen was held to be violative of Section 25-F of the Industrial Disputes Act, 1947 as they were held to have worked for more than 240 days in the 12 proceeding months prior to their wrongful retrenchment. The case for regularization was denied as they were not covered under the policy circular dated 1.10.2003 issued by the State Government for regularization of services of daily wages/contractual employees as the policy stipulated certain conditions including that the eligible employees should be in service as on 30.9.2003. The Division Bench observed that this policy of regularization dated 1.10.2003 had been withdrawn by the State Government on 9.5.2007 after the decision of Hon'ble the Supreme Court in *Uma Devi's case (supra)* but keeping in view that before withdrawal of the policy, hundreds of daily wages/contractual employees were made regular under the said policy, the respondents were also in service before withdrawal of the above stated policy and in view of the Labour Court's award which had attained finality, they were deemed to be in service on 30.9.2003. Hence they were held entitled for regularization as per the policy circular dated 1.10.2003. The Letters Patent Appeal No. 836 of 2013 filed by the State of Haryana was dismissed.

This Court thereafter, while relying upon the above judgment, allowed CWP No. 22743-2013, decided on 16.02.2016 wherein the petitioners were seeking regularization of their service, in view of policy dated 01.10.2003 on the ground that they were in service on 30.09.2003, as the award was passed in their favour.

In the present case as well, firstly the petitioner was appointed on 01.01.1999 as Labourer on daily wages basis and after his termination, he raised Industrial dispute before the Labour Court and the Labour Court vide award dated 11.07.2006 (P-1) reinstated him into service with 50% back wages. No appeal was filed against this award by the respondent-department. The right of regularization of the services of the petitioner had accrued much prior to issuance of notification dated 18.06.2014.

The ratio of LPA No.836 of 2013 is directly applicable to the facts of the present case. After reinstatement of the petitioner in service, for all intents and purposes, his case was fully covered as per policy dated 01.10.2003 (Annexure P-2). Having regard to the aforesaid, the issue involved in this petition is squarely covered by judgment in ***Mohammad Farookh's case (supra)*** bearing LPA No.836 of 2013, therefore the present writ petition is allowed. The services of the petitioner is ordered to be regularized w.e.f 01.10.2003 or from the date the service of junior to him has been regularized. The petitioner is entitled to all consequential benefits along with 6% interest.

(RITU BAHRI)
JUDGE

27.02.2020

G Arora

Whether speaking/reasoned
Whether reportable

Yes
No