

LPA-2596-2024 (O&M)

2024:PHHC:138081-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

139

LPA-2596-2024 (O&M)

Decided on :23.10.2024

State of Punjab and Ors.

.....Appellants

VERSUS

Ajit Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. R.S. Pandher, Sr. DAG, Punjab
for the appellants.

LISA GILL, J (ORAL)

1. Prayer in this appeal filed with delay of 394 days is for setting aside order dated 23.08.2022 whereby CWP No.2269 of 2016 filed by writ petitioner has been allowed. It is held vide impugned order that writ petitioner is entitled to regularization of his services from the date of his initial appointment as Chowkidar on 06.02.1997 and the period of service rendered on daily wage basis from the date of initial appointment from 1997 upto 2001 shall be counted only for the purpose of calculating his pension. Writ petitioner was held entitled to regularization in terms of circular dated 23.01.2001. Relevant portion of impugned order reads as under:-

‘11. The period of service rendered on daily wage basis from the date of initial appointment i.e. from 1997 upto 2001 shall be counted for the purpose of calculating his pension. However, for other purposes, the said period shall not be counted. The

petitioner would also be entitled to the salary and pay and allowances for the period from 2001 onwards till he attained the age of superannuation. The salary shall be fixed accordingly. The arrears shall be calculated and the amount which has been paid to the petitioner for the intervening period shall be accordingly deducted and the remaining arrears shall be released to the petitioner along with interest @ 9% per annum. The interest shall have to be borne by the office of the Director, Social Security Women and Child Development, Punjab who may further fix the liability on the persons who are found to have denied the benefit of regularization, in terms of the circular dated 23.01.2001. The retiral benefits shall also be calculated accordingly and released to the petitioner within the same period as above. The payment shall be released to the petitioner within a period of three months from today.'

2. Learned counsel for appellants submits that it was due to inadvertent error that certain material facts could not be brought to notice of learned Single Bench inasmuch as exercise for regularization of employees was indeed carried out and a seniority list, had been prepared in terms of Policy dated 23.01.2001. Writ petitioner was at Sr. No.29 and 11 of the workmen had been regularized qua sanctioned posts. Other employees have not been regularized and nobody junior to writ petitioner as per seniority list has been regularized. Reference is made to seniority list attached as Annexure A1 with CM No.6360-LPA of 2024. Reference is also made to orders dated 29.06.2001, 09.01.2002 and 12.08.2003 attached along with CM No.6360 of 2024. Learned counsel for applicant-appellant submits that the delay in filing of this appeal is not due to any negligence neither is it wilful or intentional but has occurred due to circumstances beyond the control of appellants. At the first instance office of learned Advocate General had opined

LPA-2596-2024 (O&M)

that the matter is not fit for appeal. The Department after reconsideration of the matter and documents as referred to above which could not be brought to notice of learned Single Bench, again sought filing of appeal. The delay has thus occurred in this process.

3. We have heard learned counsel for appellants but do not find any ground to interfere on the basis of certain documents which were not even placed before learned Single Bench.

4. Keeping in view the facts and circumstances as above, delay in filing of the appeal is condoned and the appeal is dismissed with liberty to appellants to file appropriate application seeking review of impugned order dated 23.08.2022, if so advised. It is clarified that there is no expression of opinion on the merits of the plea(s) raised on behalf of appellants or the documents sought to be relied upon and their impact or otherwise on the instant matter. The same shall be within the realm of consideration by learned Single Bench.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

23.10.2024
jyoti3

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether reportable:</i>	<i>Yes/No</i>