

(131)

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

CM-4843-LPA-2023 in/and LPA-1935-2023 (O&M)

Date of decision : 13.02.2024

State of Haryana and others

.....Appellants

Versus

Basti Ram and others

....Respondents

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

HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Mr. Rahul Dev Singh, Addl. Advocate General, Haryana.

Mr. Ajay Chaudhary, Advocate,
for the respondents.

G.S. SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

1. The present appeal seeks consideration of the order dated 26.04.2022 passed by the learned Single Judge in CWP-25429-2018, whereby directions have been issued to the appellants to regularize the respondents – workmen (petitioners in the writ petition), who were working as 'Beldar' on daily wages. The same was on the basis of initial policy dated 01.10.2003 (Annexure P-4), which provides that on completion of three years service in Group 'D' as on 30.09.2003, and having completed 240 days of service in a year, without a break in service of not more than 30 days, the workman was entitled for regularization. The benefit has also been granted by the learned Single Judge on the ground that juniors to the respondents – workmen were granted the similar benefit, as is reflected in the office orders dated 27.12.2006

(Annexure P-7 and P-8), which would go to show that the dates of appointment of the workmen on daily wages in those cases were 01.08.1997 and 21.07.1997. The dates of appointment of respondents No.1, 2, 3 and 4 in the present case, are 01.07.1997, 01.01.1996, 01.06.1996 and 01.01.1994, respectively.

2. The reasoning as such by the learned Single Judge is that benefits to the respondents – workmen were denied on the ground that they had been retrenched and by virtue of an order, they have been re-instated and, therefore, that period has also to be counted for the said purposes.

3. The said issue is no longer *res integra* and has been decided by the Division Bench, of which one of us (G.S. Sandhawalia, J.) was a member, in ***State of Haryana and others Vs. Balwinder Singh and others, 2023 (2) RCR (Civil) 336***, wherein all the policies and the issue of continuity of service and re-instatement by the order of the Labour Court, were taken into consideration. Accordingly, noticing that termination being *per se* illegal and not sustainable and being re-instated by the Labour Court, benefit of the said service had to be granted for the purposes of regularization. Reliance was also placed upon the law laid down in ***Sheo Narain Nagar Vs. State of Uttar Pradesh, (2018) 13 SCC 432*** and ***Rajnish Kumar Mishra Vs. State of Uttar Pradesh, (2019) 17 SCC 648***.

4. The appeal is barred by limitation of 537 days in its filing. The explanation, which has been given, was that the order being challenged in the appeal was passed on 26.04.2022. Its certified copy was applied on 17.05.2023, and was received on 21.05.2023. Thereafter, vide memo dated 05.08.2023, legal opinion was received from the office of the Advocate General that it was not a fit case for filing the appeal, but the Law Secretary-

cum-Legal Remembrance to Government of Haryana, issued instructions for filing the appeal on 18.08.2023. It is in such circumstances that the delay is stated to have taken place. The fact that the opinion of the office of the Advocate General has not been given due respect, itself is damaging enough, not to entertain the appeal on merits also.

5. Accordingly, we do not deem it a fit case to condone the delay in filing the appeal, as no sufficient cause is made out as the appeal was also only filed in November, 2023 and the intervening period has not been explained.

6. Keeping in view the above, the application for condonation of delay and the appeal are dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

February 13, 2024
ndj

Whether speaking/reasoned	Yes
Whether reportable	No