

2025:PHHC:073938



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

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**CWP-12597-2001(O&M)
Date of Decision: 28.05.2025**

SHRI LAL

... Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Kartikeya Chaudhary, Advocate
for the petitioner.

Mr. Rahul Dev, Addl. A.G., Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

CM-22780-2001

Allowed as prayed for.

MAIN CASE

The instant petition has been filed for seeking quashing of order dated 14.08.2001 (Annexure P-6) whereby the claim of the petitioner for seeking regularization was rejected.

Learned Senior Counsel contends that the petitioner was appointed as a Motor Mate on daily wages on 02.11.1992 and he continued to work as such without any break till 31.05.1994. The petitioner was, however, not allowed to continue in service w.e.f 01.06.1994. The petitioner raised an industrial dispute, whereupon the matter was referred to the Industrial Tribunal and vide the Award dated 16.02.1999, the Labour Court ordered the petitioner

to be reinstated in service with continuity in service and 25% back wages. Consequently, the petitioner was taken back in service on 09.11.2000. The petitioner thereafter submitted an application for seeking regularization of his services in terms of the policy decision dated 31.1.1996 issued by the Government of Haryana since he fulfilled the criteria prescribed thereunder. However, no decision was taken thereupon. The petitioner thus filed CWP No.7013 of 2001 before this Court, which was disposed of vide order dated 16.05.2001 with a direction to the respondents to consider and decide the legal notice dated 05.03.2001 served by the petitioner and to pass a speaking order thereupon within a period of three months. In compliance thereto the respondents passed the impugned order dated 14.08.2001 declining the claim of the petitioner on the ground that the petitioner did not fulfill the essential terms i.e. three years of service as on 31.01.1996 and there should not be a break of more than one month at a time. He contends that the petitioner's claim was rejected on the ground of break in service, hence, he was not considered for regularization in terms of the said Policy Decision of 1996.

Reliance has been placed by the learned Sr. Counsel on the judgment dated 30.11.1998 passed by Division Bench of this Court in the matter of ***Dalip Singh Vs. State of Haryana*** reported as ***(1999) 3 SCT 385*** wherein the effect of the order postulating reinstatement with continuity in service has been interpreted. In the context of regularization policy, it was held by the Division Bench that any such direction contained in an Award, which is statutory in character under Section 18 of the Industrial Disputes Act, 1947, would have the effect of conferring the right upon the petitioner to be deemed in service and the intervening period cannot be treated differently for

regularization in accordance with the policy of the Government. The relevant part of the said judgment is reproduced hereinafter below: -

“5. Shri Parmod Goyal, learned Deputy Advocate General made half-hearted attempt to convince us that the petitioners are not eligible to be considered for regularisation of services because they have not worked for 3 years preceding 31.1.1996 and they have not been paid for that period. However, we have not felt impressed and are not inclined to agree with him that notwithstanding the award passed by the Labour Court on the basis of the compromise arrived at between the parties that the petitioners will be reinstated with continuity of service, they are not to be treated as continuing in service for the purpose of consideration of their cases for regularisation of service. The award passed by the Labour Court which must be treated as statutory in character by virtue of Section 18 of the 1947, has the effect of conferring a right upon the petitioners to be treated as continuing in service for the entire period between the date on which the respondents discontinued their engagement and the date on which they were allowed to re-join duties in compliance of the award dated 10.6.1996. Therefore, it is not possible to treat the intervening period differently for the purpose of considering the petitioners for regularisation of their services in accordance with the policy framed by the government.”

Learned State Counsel, on the other hand, contends that the petitioner was engaged on daily wages on a temporary muster roll and that he was not entitled to be regularized since he worked only for 60 days in the year 1992, more than 240 days in the year 1993 and 151 in the year 1994. He was also not on duty on 31.01.1996, hence, he does not fulfill the conditions as laid down under the policy decision. He is, however, not in a position to dispute the judgment passed by the Division Bench in the matter of ***Dalip Singh (supra)***

and/or to refer any judgment which lays down the position in law to the contrary. He, however, submits that the petitioner has left the job in the year 2010.

I have heard the learned counsel for the respective parties and have gone through the documents and other material available on record with their able assistance.

The primary ground for rejection of regularization of the services of the petitioner is that as on 31.01.1996 i.e. cutoff the date for determining the eligibility, the petitioner was not in service. It is undisputed that the petitioner had raised an industrial dispute alleging that his services had been wrongly terminated. An Award had been passed by the Labour Court in favour of the petitioner directing reinstatement with continuity of service and back wages. The Division Bench judgment in the matter of ***Dalip Singh (supra)*** specifically holds that by virtue of Section 18 of the Industrial Disputes Act 1947, the effect of reinstatement with continuity in service with back wage is as if there was a deemed continuation and the same cannot be taken as an incident when the petitioner may be held to be not in service as on 31.01.1996.

The subsequent leaving of the job by the petitioner in the year 2010 would have no bearing on the rights of the petitioner to claim the benefits as would have accrued in his favour upon his regularization, when it fell due and till such time that he was in actual service with the respondents. Further, the other conditions as prescribed under the Policy of 1996 have to be determined in accordance with the directions given by the Division Bench to treat 240 days of service not on yearly basis but w.e.f. 12 months prior to the date of consideration.

Under the given circumstances, the impugned order dated 14.08.2001 is hereby set aside. The respondent-Authorities are directed to reconsider the case of the petitioner for regularization after taking into consideration the Division Bench judgment in the matter of ***Dalip Singh (supra)*** and to pass a reasoned and speaking order within a period of two months of the receipt of certified copy of this order.

Needless to say that in the event the petitioner is found to have fulfilled the conditions prescribed under the Policy Division of 1996, the consequential regularization order shall be passed in his favour regularizing the services of the petitioner w.e.f. the date the similarly placed persons, junior to the petitioner, were regularized. All other consequential benefits be also released in favour of the petitioner within a further period of three months, failing which the petitioner shall be entitled to interest @ 6% per annum from the date of this order till actual disbursement.

Petition stands allowed accordingly.

MAY 28, 2025.

Rajender

**(VINOD S. BHARDWAJ)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No