



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

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CWP-5752-2020

Date of Decision: 21.04.2025

PAWAN KUMAR AND ORS

... Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

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

Present: Mr. Ajay Chaudhary, Advocate
for the petitioners.

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

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the office order No.108 dated 29.01.2020 (Annexure P-4), whereby the petitioners have been denied the benefit of regularization of their services.

Learned counsel contends that the petitioners were appointed as Labourers on Daily Wages on different dates. He submits that notwithstanding the petitioners being covered under the Regularization Policies of 2003 and 2004, their services were however not regularized by referring to the judgment of the Hon'ble Supreme Court passed in the matter of "*State of Karnataka & others Versus Uma Devi and others*" reported as (2006) 4 SCC 1 without considering the liberty granted in paragraph No.53 thereof. The petitioners thus approached this Court by filing CWP No.17150 of 2015 titled as 'Pawan Kumar and Others Versus State of Haryana and Others' aggrieved of the act of depriving them of the benefits which accrued in their favour much before

passing of the judgment. The said CWP No.17150 of 2015 was decided by this Court vide order dated 24.01.2017. The operative part of the said judgment is reproduced hereinafter below:

“In the circumstances, this writ petition is allowed and the respondents are directed to consider the case of the petitioners for regularization of their services from the date services of their juniors were regularized. Necessary exercise be carried out within two months from the date of receipt of a certified copy of this order.”

Since no action was taken by the respondents, the petitioners filed a COCPs No.1229 and 1230 of 2017, however, during the pendency of the said COCPs, the respondents passed an office order bearing No.34 dated 06.07.2018, whereby the petitioners were ordered to be regularized, however, the notional benefits were granted to them w.e.f. 01.10.2003. When this question was raised during the contempt proceedings, the same was disposed of vide order dated 01.10.2019 with a liberty to the petitioners to move an appropriate application for seeking monetary benefits and the respondents were also directed to take a decision in the event of submission of any such representation/application.

In compliance thereof, the impugned speaking order No.108 dated 29.01.2020 was passed by the respondents declining the financial benefits to petitioners by holding as under: -

“Undersigned is of considered opinion that the directions issued by Hon’ble High Court vide its order dated 24.01.2017 in CWP-17150 of 2015 has been fully complied by regularization of the petitioner w.e.f. 01.10.2003 and grant of notional benefits upto 24.01.2017 viz seniority in service and salary-increments as per

relevant rules and actual monetary benefits thereafter. In view of the above stated facts and in accordance with legal opinion rendered by the office of Advocate General Haryana, undersigned has reached the conclusion that the petitioner is not entitled to the arrears of salary from the date of his/her regularization i.e. 01.10.2003.”

Learned counsel for the petitioners contends that the incremental benefits have been denied to the petitioners on the ground that the petitioners are not entitled to the said arrears in the absence of any precedence. He contends that various orders have already been passed by this Court directing the release of financial benefits to the employees w.e.f. the date when their juniors were regularized. He further contends that the petitioners had been in continuous service during the entire period.

He also places reliance on the order dated 15.01.2019 passed by this Court in **COCN No.1814 of 2017** titled as **“Ram Kumar Versus Dr. Padam Parkash Bhoj Vaid and Another”**. The operative part of the said order reads thus: -

“There is no doubt that the benefits that accrued from such regularisation has also to be paid. This Court has no doubt that the same shall also be done as expeditiously as possible and preferably within two months from today. In case the needful is not done, the petitioners shall be at liberty to revive the present contempt petitions.”

He further refers to the specific pleading of the petitioners in this regard and as mentioned in paragraph No.7 of the writ petition. The petitioners have given specific instances of the case where actual benefit has been given to the similar placed junior employees. It is submitted that respondents do not

dispute the subsequent payment of actual benefits to similarly placed persons. It is acknowledged that other persons may have been given actual benefits under some inadvertent mistake, but it is pleaded that the same should not confer any right in the petitioners.

Learned counsel for the petitioners further contends that infact **CWP No.14849 of 2016** titled as “**Savitri and others Versus State of Haryana and Others**” was disposed of by this Court in terms of order dated 24.01.2017 passed in CWP No.17150 of 2015. In the contempt petition, the High Court directed the payment of benefits that accrued in favour of the petitioners. The Review Application filed by the respondents was also dismissed. He contends that in compliance to the said order, the actual benefits already stand released to the petitioners in the case of **Savitri and others (supra)**. He contends that once the benefits have been given by the respondents to the similarly placed persons, who infact relied upon the order dated 24.01.2017 passed in CWP No.17150 of 2015 of the petitioners themselves, there is no reason as to why the said benefit ought to be denied to the petitioners.

Learned State Counsel is not in a position to refute the said aspect, but he contends that the said benefits have wrongly been granted.

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 perusal of the chronology of facts shows that at first instance, the petitioners preferred the writ petition which was disposed of on 24.01.2017. The subsequent writ by Savitri was disposed of by relying on the order passed in the writ petition filed by the petitioners. The benefit already stands released

to the subsequent litigants, on the strength of the order passed in the writ filed by the petitioners.

The contention of the learned State Counsel that the benefit of release of arrears to the petitioners in CWP No.14849 of 2016 has been wrongly granted cannot be accepted as a valid argument. It remains undisputed that the benefits have been released in execution of the order passed in their writ that the actual benefits have already been released. The said order attained finality. It thus does not lie with the respondents to contend that the benefits have been released wrongly.

Prima facie, I find that such an argument would be in disregard of an order passed by this Court and the State is advised to always remain careful while advancing such a defence.

Undisputedly, the petitioners have been in continuous employment during this entire period and were entitled to regularization w.e.f. 01.10.2003 since they fulfilled all necessary conditions for the same. The subsequent order of regularization does not state that the petitioners did not fulfil any eligibility conditions or whether there was any valid reason for not regularizing the services of the petitioners from the due date.

The policy of regularization having been notified by the State, which was and has always been in possession of all data, it was incumbent upon the State to have initiated the cases of eligible persons for regularization. In not doing so and by compelling the entitled employees to litigate for their benefits, the State has already caused prejudice and inconvenience. Denial of the actual benefits would only be inflicting a further injury to their rights.

The settled norm where the actual benefits may have been denied is on the principle of 'no-work, no-pay', however, there is nothing to suggest that the petitioners were not working against the posts.

Moreover, the benefits have already been granted to similarly placed persons, by placing reliance on the judgment passed in favour of the petitioners in their earlier round of litigation. I find that the State would have no valid justification in denying the said benefits to the petitioners herein.

Consequently, the writ petition is allowed and the petitioners are held entitled to the actual benefits w.e.f. the date from which the actual benefits were released to the similarly placed employees and petitioners in the case of *Savitri and others (supra)*. The respondent-State is directed to release the above benefit(s) to the petitioners.

Let the above exercise be carried out and the benefits be released in favour of the petitioner within a period of three months of the receipt of certified copy of this order, failing which the petitioners will be entitled to interest @ 6% per annum from the date of filing of the present writ petition till actual disbursement.

Petition stands allowed accordingly.

APRIL 21, 2025.

Rajender

**(VINOD S. BHARDWAJ)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No