

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CM-18250-CWP-2018 in/and
CWP-1840-2016
Date of decision: 13.12.2018

Mohinder Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Naveen Daryal, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

Ritu Bahri, J. (Oral).

CM-18250-CWP-2018

Application for early hearing is allowed and the main case is taken up on Board today itself.

CWP-1840-2016

In the present case, as per the award of the labour Court dated 28.02.2011 (Annexure P-1), the petitioner has worked for 240 days during the period from February 1998 to July 2002. In paras 9, 10 and 11 of the labour Court award, it has been observed that WW1 Shri Sahensar Pal, witness who was directed to bring the summoned record pertaining to workman, did not bring attendance register and payment register especially with regard to summoned record of the year 2002. In this backdrop adverse inference was drawn against the department keeping in view the judgment passed by this Court in **Divisional Forest Officer (Social Forestry Project), Bhiwani, now The Divisional Forest Officer (Territorial), Bhiwani V/s. Smt. Roshni Devi and another 2010(4) S.C.T. 271** wherein it has been held that if the records are not produced before the labour Court, an adverse inference will be drawn by the labour Court and further referred to Division Bench judgment in the ***State of Haryana V/s. Presiding Officer***

and another 2007 (1) RSJ 447 and State of Haryana V/s. Suresh Kumar and another 2001 (2) RSJ 286. It is further stated that it is not disputed that after the labour Court Award (Annexure P-1), the State has challenged the order by way of CWP 14985-2011 which was dismissed by this Court on 19.02.2014 (Annexure P-2). The petitioner has been reinstated with continuity of service and 50% backwages.

Learned counsel for the State has now referred to Annexure R-1, the details of the working days of the petitioner with the Department. A perusal of Annexure R-1 shows that even in these details, it has been shown that the petitioner has not worked even for a single day in the year 2002 and his services were terminated. This information cannot be now taken into account for considering the case for regularization as award of the labour Court (Annexure P-1) has attained finality after dismissal of the CWP-14985-2011 (Annexure P-2). The respondents are bound to consider the case of the petitioner for regularization as per policy dated 01.10.2003 keeping in view the judgment passed in **CWP-2009-2016 Balwinder Singh and others V/s. State of Haryana and others**, decided on 04.10.2018 wherein it has been held that the workman has to be given benefit of award of labour Court for the purpose of considering the case for regularization.

This petition is being disposed of by giving direction to the respondents to pass appropriate order within a period of three months from the date of receipt of certified copy of this order failing which Rs.50,000/- will be deposited in the account of the petitioner and the Department will inform of the order passed to the Court.

(RITU BAHRI)
JUDGE

13.12.2018

Divyanshi

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No