

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

2025:PHHC:055408



(206)

CWP-4411-2016

Date of Decision: 29.04.2025

Hansa Dutt Pandey

--Petitioner

Versus

State of Haryana & others

--Respondents

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

Present:- Mr. Rajiv Sharma, Advocate with
Ms. Sonia Sharma, Advocate for petitioner.

Mr. Tapan Kumar, DAG, Haryana.

VINOD S. BHARDWAJ.J (Oral)

1. Challenging the letter dated 02.09.2015 (Annexure P-12), whereby the Sub Divisional Engineer, Provincial Sub Division No.IX, Haryana PWD B&R Branch, Panchkula, has ordered to keep the claim of the petitioner for regularization in abeyance till the decision of Government, the instant writ petition has been filed.

2. Learned counsel appearing on behalf of the petitioner contends that the petitioner was appointed as a Chowkidar by Sub-Divisional Engineer on daily wages w.e.f. 24.04.1991. He filed civil writ petition seeking regularization of his services but the same was adjourned sine-die with the direction that it be listed after the decision of the Hon'ble Supreme Court in the matter of **State of Haryana and others Vs. Piara Singh and others**. A further interim direction was also given to the effect that the services of the petitioner be not terminated except in accordance and while

complying with the provisions of the Industrial Disputes Act. Despite the said order, petitioner was relieved from the duty on 11.06.1992 and one another Chowkidar namely Tek Bahadur was appointed w.e.f. 18.06.1992. The petitioner preferred a contempt petition before this Court aggrieved of his unlawful and malicious removal from service. The petitioner also claims that he was taken back in service whereupon he withdrew the Contempt Petition that had been filed. He was however illegally removed yet again w.e.f. 11.12.1992 on the ground that he was no longer required and one month notice was served upon him. The action being arbitrary as persons who were junior were still being retained in service, the petitioner filed a demand notice dated 04.02.1993 with the reconciliation officer. A reference was made to the Labour Court, Chandigarh which was later dismissed on the grounds of jurisdiction. The said award attained finality. The petitioner thereafter filed his claim before the Labour Court, Ambala and revealed all information including the earlier proceedings before the Labour Court, Chandigarh. The petitioner established having worked for more than 240 days, which such evidence was also admitted by the Management witness. The said reference No.R-119/2011 was finally allowed by the Labour Court vide award dated 10.09.2013 directing the reinstatement of the petitioner with continuity of service and 50% back wages. The said award was challenged by the State vide CWP-3350-2014 and an interim stay was granted only against the back-wages. It is submitted by the petitioner that notwithstanding the junior employees having been regularized by the respondent-department, the claim of the petitioner for regularization was not considered due to pending writ. It is argued that now the said impediment is also non-existent since CWP-3350-

2014 has been dismissed by this Court vide order dated 23.05.2024.

3. Learned counsel for the respondent-State places reliance on the written statement and contends that the petitioner had earlier submitted a demand notice to the Reconciliation Officer, Chandigarh on 04.02.1993 against which a reply was filed. A reference was also made to the Presiding Officer, U.T., Chandigarh, which was decided on 11.10.2000 dismissing the reference on the ground of jurisdiction. Aggrieved thereof, the petitioner filed CWP-1015-2001 before this Court, which was dismissed vide order dated 02.04.2009. The LPA-864-2009 filed against the same was dismissed on 29.03.2010. SLP No.(C) CC No.12597 of 2010 filed before the Hon'ble Supreme Court was also dismissed vide order dated 27.08.2010. Another demand notice was accordingly submitted by the petitioner to the management on 30.05.2011, whereupon a reference was made to the Industrial Tribunal-cum-Labour Court, Ambala on 16.03.2012, where the award was passed on 10.09.2013 for reinstatement of the petitioner with continuity of service and 50% back wages. The other facts are not disputed by the Learned State Counsel. He submits that the petitioner pursued before a wrong forum where his claim did not succeed, hence, the State should not be held liable.

4. Learned State counsel has been confronted with the averments incorporated by the respondent State in its reply to para 9 to the effect that claim of the petitioner for regularization of his service was not being considered because of pendency of CWP-3350-2014 against award dated 10.09.2013 and it is also not disputed that the said writ petition stands dismissed vide order dated 23.05.2024. He also does not dispute that the petitioner was actually appointed to the post but was not regularized.

5. Under the given circumstances, once the respondent-State has acknowledged the claim of the petitioner for regularization and has stated that the benefit of regularization could not be given to the petitioner since CWP-3350-2014 was pending before this Court which is undisputedly decided in favour of the petitioner, there would be no reason to take necessary steps once the writ is decided.

6. Once the state has notified a regularization policy for the benefit of the employees, the responsibility lies on the State to process the cases of all those persons who were eligible on the said date. The respondent-State even though partially implemented the award of Labour Court by offering appointment but with-held the benefit of continuity and the consequential regularization even though the award was stayed only to the extent of the back-wages. The respondents having acknowledged pendency of the writ as the reason for denial of benefits, would become bound to do the needful once the writ gets dismissed.

7. The writ petition thus deserves to be allowed on the grounds of admission of the claim of the petitioner by the respondent-State. The respondents are hence directed to consider the case of the petitioner for regularization of service w.e.f the date his juniors were regularized. The petitioner shall, however, not be entitled to the disbursement of actual benefits for the period w.e.f. 04.02.1993 up till 30.05.2011 other than 50% back wages that have already been awarded by the Labour Court. The remaining benefits shall be assessed notionally. The actual benefits shall accrue in favour of the petitioner w.e.f. 30.05.2011.

8. Let the necessary exercise be completed by the respondents within a period of three months from the date of receipt of a certified copy

of this order and all admissible statutory dues of the petitioner be cleared within a period of two months thereafter, failing which petitioner shall be entitled to interest @ 6% per annum from the date of filing of the present writ petition till its actual realization.

9. Petition is allowed in the aforesaid terms.

(VINOD S. BHARDWAJ)
JUDGE

29.04.2025

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No