



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

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**CWP-28500-2018
Date of decision: 07.03.2025**

MUNSHI RAM

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

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

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

Mr. Tapan Kumar, DAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the order dated 12.09.2014 whereby the regularization order issued in favour of the petitioner on 22.07.2014 w.e.f. 01.10.2003 had been withdrawn and revised instructions have been issued to regularize the services of the petitioner w.e.f. 07.07.2014, without affording any opportunity of hearing and without serving any Show Cause Notice.

2. Learned Counsel appearing on behalf of the petitioner contends that the petitioner was engaged as a Beldar with the respondent-Department in the year 1984 and that he continued to work with the respondents. The Government of Haryana issued a policy of regularization on 01.10.2003 to regularize the services of the Daily Wagers who had completed 03 years of service as on 30.09.2003. The respondent-authorities issued a memo No. 94



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dated 18.07.2014 wherein it was specifically noted that the petitioner was eligible for regularization of his service under the notification of 01.10.2003.

The operative part of the memo No. 94 dated 18.07.2004 reads thus:-

Subject: Regularization of Group-B, C & D employee/workers as per Govt. Policy dated 16.06.2014 & 18.06.2014.

Reference Your office memo No.473 dated 01.07.2014.

In this connection it is submitted that as per Haryana Govt. General Administration department gazette notification No. 06/07/2014/14-S1 dated 18/06/2014 amendment are made in the Haryana Govt. General Administration Department (General Services-I) Notification No. C.S.R. 13/Cost./Art/309/2007 dated 13th April 2007 the following provision shall be added at the end namely:-

"Provided that the left over group "C & D" employees working on Adhoc/contract /daily wages/work charged basis, who could not be regularized under the regularization Policy issued vide notification mentioned at Sr. No.1 to 4 above due to administration reasons but where otherwise eligible shall be regularized w.e.f. the date (s) they were eligible for regularization".

Accordingly, to the above said amendment Sh. Munshi Ram S/o Sh. Ram Swaroop daily wages worker fulfilled the condition as prescribed in the gazette notification dated 01.10.2003. According to the condition in notification dated 01.10.2003 i.e, only such daily wages employees who have completed three years services on group-D post(s) as on 30th



September 2003 shall be regularized against their respective group post(s) provided they fulfill the requisite qualification and were originally against vacant posts. Provided further they have worked for a minimum period 240days in each year and if the break in service of a daily wage employee(s) has been caused no fault attributable to him, such break period should be condoned unless it is of an extraordinary longer period. However, if the break in services has been caused due to fault of the employee like abandonment of employment, the Govt. may not Condon the same if the period of such break is more then break of 30days. Sh. Munshi Ram Beldar S/o Sh. Ram Swaroop was previously working under Provl. Divn. No.3 Rohtak. The photocopy of year wise detail of attendance previously prepared by Provl. Divn. No. 3 Rohtak is attached herewith. Now he is working under this sub division and no break in his service. He has fulfilled the condition for regularization of his service under notification dated 01.10.2003. It is recommended to regularize his service in view of notification issued by Haryana Govt. dated 18.06.2014.”

3. He submits that in pursuant to the said recommendation, order No. 28 dated 22.07.2014 was passed by the respondent-authorities whereby the services of the petitioner was regularized w.e.f. 01.10.2003. The said order reads thus:-

Office order No. 28

Dated 22/7/2014

As per Haryana Govt. Gazette Notification GSR-24 Const/Art-309/2003dated 1" - October, 2003 and revised Govt. Gazette Notification (Amendment) No.6/7/2014-



IGSI dated 18 June, 2014, the following daily wages worker / employees are brought on regular cadre w.e.f. 01.10.2003 provisionally as Beldars in scale of 2550-3200 as per approval of the E.I.C. Haryana PWD B&R letter No.3915-29/EIII dated 17.07.2014 and subject to the approval of FD and following conditions:-

Sr.No. Name of the employees Designation.

1. Sh. Munshi Ram S/o Sh. Ram Sawrop Beldar

4. He contends that notwithstanding the said order of regularization, the respondents passed another office order No. 40 dated 12.09.2014 whereby they changed the date of regularization of service of the petitioner to 07.07.2014 instead of 1.10.2003. The relevant extract of the said office order No. 48 dated 12.09.2014 reads thus:

In view of clarification received vide memo No.7286-7300/EIII dated 09/09/2014 from Head office and policy of Haryana Govt. issued by the Chief Secretary to Govt. Haryana vide No.6/7/2014-IGSI dated 18th June 2014, and No. GSR28/Const.Art.309/2014; the following Group 'C' & 'D' employees / workers are eligible for regularization and shall be regularized against their respective Group 'C' & 'D' post as on 07.07.2014 as per notification No.6/23/2014-IGSI dated 7th July 2014.

The following officials working on Muster Roll as Beldar fulfills the conditions of policy framed by the Haryana Government:-

<i>Sr. No.</i>	<i>Name of employee</i>	<i>Education Qualificati</i>	<i>Date of engagement</i>	<i>Remarks</i>
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	(Group 'D' Post)	on as on cutoff date.	in the Deptt.	
1.	Sh. Munshi Ram S/o Sh. Ram Saroop	Knowledg e of Hindi as on 01.10.200 3	11/1984	He has completed three years service as on 30 th Sept. 2003. He is still in service. He possessed education qualificatio n as per draft service rules i.e. knowledge of Hindi. He was engaged prior to 31.01.1996. Hence he fulfills all condition as per policy No. H.S.R. 24/Const./A rt.309/2004 dated 10.02.2004.

According the service of the above named officials are hereby regularized as beldar with effect from 07.07.2014 in the Pay Band-IS Rs. 4440-7440+1300 Grade Pay with the following terms and conditions:-

5. Counsel contends that the said decision of the respondents to change the date of regularization is illegal and liable to be set aside as the same is not only in violation of the principles of natural justice but is also non-speaking as it does not assign any specific reason as to why the petitioner was not being extended the benefit of regularization in terms of

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the applicable policy, despite being duly eligible. He submits that the matter in hand was adjourned to await the final outcome of LPA No. 688 of 2021 titled “State of Haryana and others versus Balwinder Singh and others” in which the regularization policy of 01.10.2003 was under challenge. He submits that the Letters Patent Appeal has already been decided vide judgment dated 02.12.2022 and the State’s appeal has been dismissed. He further submits that SLP filed against the said judgment has also been dismissed by the Hon’ble Supreme Court vide order dated 09.01.2024 while keeping the question of law open. It is thus submitted that the impugned order dated 12.09.2014 be set aside and the respondents be directed to implement the order of regularization of service to the petitioner w.e.f. 01.10.2003 vide office order No. 28 dated 22.07.2014.

6. Learned Counsel appearing on behalf of the respondent-State, submits that undisputedly the petitioner was engaged as Beldar in the year 1984 on purely daily wage basis in the Department and he continued in service as per requirement at site/road. It is contended that the service of the petitioner could not be regularized as per policy of 01.10.2003 due to break in service of more than 30 days i.e. 01.01.2002 to 06.02.2002. A reference in this regard was raised by the petitioner before the Labour Court for reinstatement in service against his retrenchment. An Award dated 27.03.1996 was passed, wherein it was held that the termination was bad as it was in violation of Section 25F of the Industrial Disputes Act, 1947. The said Labour Court Award was challenged by the State before the High Court vide CWP-4605-1998 which was partly allowed on 06.12.2005. The SLP



filed by the State was dismissed on 30.10.2006 on the grounds of delay. He submits that since the petitioner claimed regularization, but it had not been extended, a COCP No. 1071/2006 was filed in CWP-4605-1998 for according sanction for regularization of service of the petitioner. In compliance, the Finance Department passed an order on 05.10.2006 and held that the service of the petitioner could not be regularized, since at the time of his appointment, the process of regular appointment was not followed.

7. A perusal of the order passed in CWP-4605-1998 and as extracted in the speaking order by the respondent shows that the Counsel for the petitioner had made a reference to compromise/agreement that had been entered into between the parties, as per which the petitioner had foregone the backwages and that a direction was to be issued to the respondents for regularization of services. Taking note of the aforesaid settlement, this Court disposed of the writ petition by commanding the respondent-State to look into the grievance of the petitioner, in relation to the claim for regularization and to do the needful in accordance with law, after affording an opportunity of hearing. He submits that a detailed order was thereafter passed by the respondents on 13.01.2007 declining the prayer for regularization. The said order was challenged by the petitioner in CWP-7201-2007 titled "*Munshi Ram versus State of Haryana*" which was dismissed on 10.01.2008. The decision of the Government was upheld and it was held that the services of the petitioner cannot be regularized. Hence, he submits that the petitioner having taken recourse to a specific remedy, by impugning the decision taken by the respondents that benefit of regularization could not be extended to



him, cannot thereafter claim that the consequential order of withdrawal of the regularization is bad. He however submits that an actual opportunity of hearing seemingly has not been extended to the petitioner while the order of regularization was withdrawn on 12.09.2014.

8. Controverting the same, learned Senior Counsel for the petitioner submits that stand of the respondents is only an attempt to confuse a plain issue. He submits that consequent upon passing of the judgment in the matter of “*State of Karnataka versus Uma Devi*”, the Government of Haryana had earlier issued a notification of 13.04.2007 whereby all the regularization policies including the regularization policy of October, 2003 had been withdrawn. Hence, the order in question was passed in light of the said decision withdrawing the regularization policies. He submits that eventually the Government of Haryana published a Gazette Notification dated 18.06.2014 in relation to the notification dated 25.04.2007 and the following proviso was added. The same are extracted as under:-

"Provided that the left over Group "C" and "D" employees working on adhoc/contract/daily wages/work-charged basis, who could not be regularized under the regularization policy issued vide notifications mentioned at serial No. 1 to 4 above due to administrative reasons but were otherwise eligible, shall be regularized with effect from the date(s) they were eligible for regularization."

9. It is stated that a conscious decision had been taken on 18.06.2014 that the employees who were working on adhoc/contract/daily



wages/work-charge basis could not be regularized under the regularization policy issued vide the notification thereunder due to administrative reasons but otherwise eligible, were ordered to be regularized with effect from the date of their eligibility, hence, the order of regularization needs to be restored. He thus contends that it was in such changed scenario and the subsequent issuance of the notification dated 18.06.2014 in modification of the notification dated 25.04.2007 that the consequent letter of regularization w.e.f. 01.10.2003 was issued on 23.07.2014. He thus submits that any reference to the reply/proceedings that had been initiated on account of the proceedings that were related to the policy of 13.04.2007 would be inconsequential, since the right in favour of the petitioner accrued afresh on issuance of the notification of 18.06.2014.

10. I have heard learned Counsel appearing on behalf of the respective parties and have gone through the documents available on record with their able assistance.

11. Having heard learned Counsel for the parties and going through documents establishes that even though an attempt has been made by the respondents to submit that the policy of 18.06.2014 was in relation to the left over Group 'C' employees whose's services could not be regularized at relevant point in time and that since the petitioner was not in the left over Group of employees, hence, the benefit would not be applicable to him, however, I find that the argument is devoid of any merit. The entire sequence of the events establishes that the petitioner had been working with the respondents since November, 1984 and against an illegal termination of



his service, a Labour Court Award was also passed in his favour. The petitioner although surrendered his back wages subject to regularization of his claim to which the State Government agreed and an agreement to that effect was also executed. On account of declaration of law by Hon'ble the Supreme Court in the matter of "State of Karnataka versus Uma Devi", the Government of Haryana issued a notification on 13.04.2007 as per which the regularization policies were withdrawn.

12. Taking into consideration the new notification that had been issued, the benefit of regularization could not be extended to the petitioner. It was in the said circumstances that the CWP-7201 of 2007 preferred by the petitioner was dismissed by a Division Bench of this Court vide order dated 10.01.2008. The State Government later carried out an amendment to the policy of 13.04.2007 vide notification dated 18.06.2014 whereby a proviso to the policy was issued. As per the said provision, the petitioner became eligible yet again for regularization w.e.f. the date of fulfillment of eligibility. Undisputedly, the petitioner fulfilled the conditions of eligibility as per their Memo bearing No. 94 letter dated 18.07.2014. The consequential benefit of the break in service has been extended to the petitioner in order to compute the eligibility. The said eligibility not being under challenge or being under dispute, the order of regularization was passed by the respondents w.e.f. 01.10.2003. Apparently, the subsequent order has been passed in CWP-7201-2007 whereby rejection of the claim of the petitioner for regularization was upheld by a Division Bench of this Court notwithstanding the subsequent developments that have accrued in favour of



the petitioner. The respondents arbitrarily and unilaterally chose to make an amendment in the order of regularization of the petitioner vide office order No. 48 dated 12.09.2014, without assigning any reasons, and even the said order, they do not dispute that the petitioner fulfilled all the terms and conditions as per the policy of 2003. I find that the case of the petitioner is covered under the notification of 18.06.2014, hence, the admissible benefits in terms thereof had been duly extended to him.

13. The contention of the State Counsel that case of the petitioner was not a left over case is also flawed in as much as every person who was eligible as on the date and the period for which the policy was in force, but could not be regularized on account of administrative delays, is a case which falls under the umbrella of left over employees. Accordingly, the respondents cannot be permitted to take shield of the dismissal of the earlier writ petition under the then prevailing circumstances and contend that the right of the petitioner to claim regularization stands defeated.

14. Despite noticing that the petitioner had completed three years of service as on 30.09.2003 and was in continued in service even on date of passing of the office order No. 40 dated 12.09.2014, the respondents nonetheless ordered to change the date of regularization to 07.07.2014 for no tangible cause. I find that the said modification is nothing more than an attempt on the part of the respondents to deny the rightful due of the petitioner to claim regularization with effect from the date when it fell due i.e. 01.10.2003. Denial of the relief and the accrued right is impermissible for the State, which is supposed to act as a model employer. Merely because

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certain additional benefits may have to be extended to an employee, it could not be the reason for the respondents to carry out arbitrary changes in the extension of benefits.

15. Resultantly, the instant writ petition is allowed, the impugned order dated 12.09.2014 (Annexure P-9) is set aside being illegal and not based upon appreciation of the changed policy and notified on 18.07.2014 w.e.f. 13.04.2007 whereby the proviso had been extended making the petitioners eligible. Since the eligibility of the petitioner as on 01.10.2003 is not under challenge, hence, the benefits to which the petitioner was entitled under the said policy under which he was eligible cannot be denied.

16. Accordingly the order dated 22.07.2014 regularizing the service of the petitioner w.e.f. 01.10.2003 is ordered to be restored. The respondents are further directed to re-calculate the admissible financial and consequential benefits to the petitioner in a time bound manner and preferably within a period of three months of receipt of certified copy of this order. The said benefits be released to the petitioner in a further period of two months thereafter, failing which the petitioner shall be entitled to interest @ 6% per annum from the date of filing of the present writ petition till its actual disbursement.

(VINOD S. BHARDWAJ)**MARCH 07, 2025****JUDGE***Vishal Sharma*

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