

2025:PHHC:017232



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

(211)

**CWP-28839-2018
Decided on: 04.02.2025**

Raj Karan & others

.....Petitioner (s)

Versus

State of Haryana & others

.....Respondent(s)

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

Present:- Mr.Deepak Sonak, Mr.Vikas Sonak, Advocates,
for the petitioners.

Mr.Tapan Kumar, DAG, Haryana.

VINOD S.BHARDWAJ, J. (Oral) :

1. Challenge in the present writ petition is to the communication dated 29.06.2018 (Annexure P-11) as well as the regularization order dated 07.10.2014 (Annexure P-5) alongwith the order dated 20.10.2024 (Annexure P-6) to the extent whereby the services of the petitioners have been regularized w.e.f. 01.07.2014 instead of 01.10.2003, notwithstanding the Labour Court awards passed in their favour.

2. Learned Counsel appearing for the petitioners contends that the petitioners were appointed on daily wage basis with the respondent-Department as Water Pump Attendants and the work and conduct of the

petitioners remained quite satisfactory and there is nothing adverse against them till date. The details of the petitioners are extracted as under:

Name	Date of appointment	Date of termination	Date of award	Relief
Raj Karan	01.11.1995	26.11.2001	10.02.2005	Reinstatement of the continuity of service and full back wages.
Vijay Pal	01.11.1995	26.11.2001	10.02.2005	Reinstatement of the continuity of service and full back wages.
Naresh Kumar	01.04.1996	26.11.2001	10.02.2005	Reinstatement of the continuity of service and full back wages.

3. Counsel contends that the petitioners were working on the muster rolls of the respondents continuously since 1995/1996 but their services were wrongly retrenched by the respondents without following the statutory provisions. A demand notice under Section 2A of the Industrial Disputes Act, 1947 was later served upon the respondents. The conciliation proceedings failed to resolve the dispute whereupon reference was sent to the Industrial Tribunal-cum-Labour Court to determine as to whether services had been validly terminated or not.

4. Parties led their respective evidence and on consideration thereof, the Labour Court held that the petitioners were wrongly retrenched without following the statutory mandate and without paying any retrenchment compensation. The petitioners were held entitled to the protection of the Industrial Disputes Act, 1947 since they had worked for a period of more than 240 days in the last 12 months preceding the date of termination of their services.

5. Learned Counsel for the petitioners contends that the Labour Court awards have attained finality and the petitioners have been granted all the pecuniary benefits as per the award. He contends that the

respondents-State framed the policy for regularization of daily wages employees on 07.03.1966, 18.03.1996 and 01.10.2003. The conditions for regularization are extracted as under:

“Such daily wages employees who have completed three years service on Group D Post on the cut of date and were in service on thereafter shall be regularized against their respective group D posts provided they fulfill the requisite qualification and were originally appointed against vacant posts. Provided further that they have worked for a minimum period of 240 days in each year and if the break in service of a daily wage employee has been caused for no fault attributable him, such break period should be condoned unless it is of an extraordinary longer period. However, if the break in service has been caused due to fault of the employee like abandonment of employment, the Government may not condone the same if the period of such break is more than a period of 30 days.”

6. He further contends that the petitioners had approached this Court for regularization of their services vide CWP-17978, 17974 & 18226-2013 and during the pendency of these writ petitions, the respondents passed orders dated 20.10.2014 and 07.10.2014 whereby services of the petitioners were regularized w.e.f. 01.07.2014. Hence, the said writ petitions were rendered infructuous. The petitioners, thereafter, came to know that the services of other similarly situated employees namely Suresh, Tara Chand, Ved Parkash, Kaptan Singh and Ravinder Singh, were regularized w.e.f. 01.10.2003 whereas the petitioners' services were regularized from 01.07.2014. Petitioners, thereafter approached the respondents several times however, no steps were taken. They were, thus, compelled to serve a legal notice dated 14.05.2018, to which reply was sent on 29.06.2018. The respondents, in their reply,

regularization of service from 01.10.2003, thus, compelling the petitioners to file the instant writ petition.

7. Learned Counsel for the petitioners contends that as per the Labour Court award, the petitioners were given the benefit of reinstatement with continuity of service and full back-wages from the date of demand notice i.e. 26.11.2001. He further contends that the respondents have construed the aforesaid order to mean that the benefit of continuity and back-wages itself have been confined to the period from 26.11.2001 whereas the said award was limited to 26.11.2001 only towards the back-wages that were to be paid from the date of the demand notice and that the part of the award whereby the benefit of continuity of service had been granted, would relate back to the date of termination. Reliance has been placed upon the order passed by this Court in **CWP-22678-2011** titled **Mohammad Farookh & another Vs. The State of Haryana & others**, decided on 20.09.2012. In the said writ petition, the claim of the petitioners was that continuity of service was granted but back-wages were not granted. The claim of the petitioners therein was accepted in light of the award passed by the Labour Court. He contends that the aforesaid judgment passed by Learned Single Judge was challenged in **LPA-836-2013** and the same was also dismissed by the Division Bench on 20.04.2013. The judgment of the Learned Single Judge, thus, attained finality.

8. Learned State Counsel re-emphasizes that the writ petitioners do not fulfill the terms and conditions as per the regularization policy and that the benefit of continuity of service and back-wages itself had been

26.11.2001 and therefore, the petitioners cannot claim that they were in service as on 26.11.2001 and fulfill the other terms and conditions of the regularization policy and the benefit of regularization to the petitioners have rightly been granted from 01.07.2014.

9. No other argument has been raised before me by either of the parties. I have heard Learned Counsel for the respective parties and with their assistance, gone through the record.

10. The primary issue that arises for consideration before this Court is whether “the award of reinstatement with continuity in service and full back-wages from the date of demand notice i.e. 26.11.2001” has to be interpreted as a date applicable to both i.e. reinstatement as well as back-wages or has to be applied only in the context of “full back-wages from the date of the demand notice”.

11. On going through the judgment passed by this Court in **Mohammad Farookh (supra)**, it is evidently held by the Learned Single Judge that the relief of reinstatement and continuity has to be seen in the context of date of initial entry in service i.e. initial appointment. The relevant part of the judgment is extracted as under:

“In the light of these Awards passed in favour of the petitioners, the objection of the respondents that petitioners were not in service on 30.9.2003 which would have entitled the petitioners for consideration of regularization of their services in the light of policy decision dated 1.10.2003 (Annexure P-3) cannot sustain as in the light of the Awards, petitioners would be deemed to be in service with effect from their initial date of appointment, i.e. July 1990 (petitioner No.1) and 1.11.1992 (petitioner No.2).”

12. The termination of services having taken place nearly three

years approximately prior to the demand notice, hence, financial liability

for the period when no industrial dispute is raised by the workman is excluded as such delay is attributable to the workman alone. In case, even the continuity is to be read in the context of date of demand notice, the core element of “continuity” gets lost since then it commences from the date of demand notice and not with effect from the date when an illegality was committed by the employer i.e. wrongful retrenchment. Once a Court of law holds that retrenchment was bad and illegal, such notional benefits relate back to the date when illegality was committed, unless curtailed. The financial benefits are however restricted since the presumption is that a workman may be gainfully employed in the interregnum. Hence the governing principles have a valid rationale and justification, hence, it was held by this Court of Mohammad Farookh (supra) that it would relate back to the date of original appointment.

13. Taking into consideration the same, the relief awarded by the Industrial Tribunal-cum-Labour Court has to be read and interpreted as under:-

- (i) So far as the relief in relation to the entitlement to reinstatement with continuity of service is concerned, the said relief of reinstatement would relate back to the date of initial induction in service; and
- (ii) So far as the second part of the relief is concerned i.e. in relation to the full back-wages is concerned, the same has been restricted to be disbursed to the petitioners w.e.f. 26.11.2001 i.e. when the petitioners had chosen not to raise an industrial dispute.

14. In view of the above, I am of the opinion that the reason given by the respondents in denying the benefit of regularization to the petitioners w.e.f. 01.10.2003, is misconceived. The petitioners would, thus, be entitled for continuity of service from the date of their initial appointment and for consideration of their claim for regularization accordingly. The respondents are, accordingly, directed to re-determine the case of the petitioners on the basis of the aforesaid interpretation given by this Court and in the event of the petitioner fulfilling the terms and conditions as per the regularization policy dated 01.10.2003, all the consequential benefits be granted to them w.e.f. the date it fell due.

15. Needful shall be done by the respondents within a period of 3 months from the receipt of certified copy of this order, failing which the officials causing delay shall be jointly and severally liable to a cost of Rs.1,00,000/- out of which Rs.60,000/- shall be disbursed proportionately to the petitioners while the balance Rs.40,000/- shall be deposited with PGIMER (PPWF), Chandigarh.

16. The present writ petition stands allowed in the above-said terms.

04.02.2025
Sailesh

(VINOD S.BHARDWAJ)
JUDGE

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