



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-8484-2017 (O&M)

Date of decision: 25.04.2025

Chand Singh

...Petitioner

VERSUS

State of Haryana and others

...Respondents

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

Present :- Mr. Deepak Girotra, Advocate and
Ms. Nirmala Jangra, Advocate for the petitioner(s).

Mr. Tapan Kumar, DAG Haryana.

Ms. Raajeshwari, Advocate for
Mr. S.S. Behl, Advocate for respondent No.4.

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order dated 12.09.2014 to the extent whereby the petitioner has been regularized w.e.f. 01.07.2014 as *Beldar* whereas his juniors were regularized w.e.f. 01.02.1996.

2. Learned counsel contends that the petitioner joined the respondent-Department on 01.07.1992. His services were however illegally dispensed with by the respondents in the month of August, 1993 against which an industrial dispute was raised. The matter was resolved under Section 12(3) of the Industrial Disputes Act, 1947 and a compromise was recorded on 09.11.2004 to the effect that the petitioner shall be allowed to re-join the services on the same conditions on which he



used to work earlier but will not be paid any salary on the principle of ‘No Work No Pay’. It was also specifically stated in the compromise that the services of the petitioner shall be considered as continuous and that he shall be permitted to join the duty from 01.12.2004. The relevant extract of the settlement reads thus:-

“Conditions of Compromise-

*It has been settled between both the parties that the incharge takes Sh. Chand Singh on duty on the condition that the worker will work on the same conditions on which he earlier used to work. The worker will not get any salary on the basis of no work no pay. **The services of the worker will be considered as continuous.** The worker will join the duty from dated 01.12.2004.”*

3. Consequent to the said settlement, the petitioner joined the services with the respondents and continued to discharge his functions.

4. Counsel contends that even though one junior namely Sh. Devi Singh son of Sh. Net Ram, who joined the respondent-Department on 01.12.1992, had been regularised by the respondents w.e.f. 01.02.1996, however, the benefit of regularisation with effect from the same date was not extended to the petitioner notwithstanding that the petitioner was held entitled to the benefit of the continuity under the settlement arrived at under Section 12(3) of the Industrial Disputes Act, 1947, which is binding. He contends that the respondents subsequently issued the office order



regularizing the services of the petitioner as a *Beldar* w.e.f. 01.07.2014 against which the instant writ petition was filed in the year 2017.

5. Learned counsel appearing on behalf of the respondent(s)-State, however, contends that the petitioner is not entitled to regularisation w.e.f. 01.02.1996, since he was not in service on the said date to be eligible for regularisation. It is further submitted that even though the petitioner was fully aware of all the policies that were in force yet he did not come to this Court immediately and has filed the instant writ petition at a highly belated stage. Hence, the writ petition deserves dismissal on the ground of delay and laches. It is also argued by the learned State counsel that regularisation was denied as petitioner did not fulfill the conditions as per the applicable policy and policies of regularisation pertaining to the years 1997, 1999, 2003 and 2004 had already been withdrawn vide memo bearing No.43/31/06-1GSI dated 25.04.2007.

6. No other argument has been raised nor any judgment has been cited by the learned counsel for the respective parties.

7. I have heard the learned counsel for the respective parties and have gone through the documents appended with the present writ petition.

8. The following undisputed facts emerge from the documents available on record and the contentions of the parties:-

- (i) The petitioner joined the services with the respondent-Department, on 01.07.1992 as a Fitter Coolie at Sub-Division, Rohtak;



- (ii) The services of the petitioner, however, were seemingly discontinued/terminated against which an industrial dispute was raised. The said industrial dispute came to an end vide a compromise arrived at between the parties on 09.11.2004 under Section 12(3) of the Industrial Disputes Act, 1947. As per the terms of the settlement, the petitioner was entitled to continuity but not to the actual salary and that he was to resume duty w.e.f. 01.12.2004.

9. It is not in dispute that ever since the resumption of the duty, the petitioner continued to work to the satisfaction of the respondent-authorities. It is also not in dispute that the petitioner submitted his claim for regularisation of his services but the order was passed by the respondents on 12.09.2014 regularising the service of the petitioner w.e.f. 01.07.2014.

10. Even though, the respondent-State has emphatically argued that since the earlier instructions for regularisation had been withdrawn by the Government vide memo dated 25.04.2007, however, it does not dispute that one Devi Singh, who was junior to the petitioner, had been regularised by the respondents w.e.f. 01.02.1996. The reason which thus flows is that since the petitioner was not in actual service and the dispute was pending before the Labour authorities at the time when regularisation Policies were notified, hence, the petitioner could not be regularised under the prevalent Policies. The State has however failed to examine the effect of the settlement in which the workman has been offered to rejoin on the same terms and



conditions and the service has been agreed to be treated as continuous. Once the respondents refuse to recognize the entitlement of the workman to the benefits of continuity, it amounts to disregarding the settlement and refusing to give effect and benefits of continuity. The State as a model employer is estopped from depriving the workman of the benefits which are assessed to be extended.

11. The second contention of the respondent(s)-State about the instant petition being barred by the limitation however may not come of much as an aid to the respondents as there is nothing on record to show that post re-instatement of the petitioner in terms of the settlement arrived at on 09.11.2004, the respondents had examined the claim of the petitioner in terms of the prevalent regularisation policy at that time when the cases of other similarly placed employees were considered. It would not be open to the respondent-authorities to contend that even though the petitioner is entitled to the benefit of continuity of service, however, he can yet be denied the actual and consequential entitlements that accrued in his favour. The petitioner having given up only the claim towards salary/wages for the interregnum period, all other benefits such as the benefits pertaining to the seniority, promotion etc. cannot be deemed as foregone in the said compromise. The respondent-State is deemed to be conscious of the rights and liabilities while entering into a settlement and making the petitioner forego only the actual claim for salary and back-wages.

12. There is also nothing on record to establish whether despite



being duty bound to consider the claims of eligible persons for regularisation in terms of the applicable policy, the respondent-State actually took a conscious decision on the claim of the petitioner to be regularised w.e.f. 01.02.1996, subsequent to his re-induction into service. Although the respondent-State has placed reliance on the instructions of April-2007, however, it is not disputed that the re-employment of the petitioner had already taken place in the year 2004, hence, the subsequent instructions withdrawing the earlier policies of regularisation, cannot be relied upon by the respondent-State to deny the claim of the petitioner. Since the respondents never conveyed rejection of the claim to the petitioner at any prior point of time and an order was formally passed only in the year 2014, the institution of the instant petition in the year 2017 cannot be said to be barred by delay and laches. Considering that had the services of the petitioner not been terminated unlawfully and in violation of the provisions of the Industrial Disputes Act, 1947, the petitioner too would have been regularised w.e.f. the date his junior was regularised, I fail to find myself in agreement with the respondent-State or to accept their argument that since the petitioner was not in service as on 01.02.1996, he could not be regularised primarily for the reasons that the entire period during which he remained out of service i.e. from 1993 till December-2004, it was on account of the acts attributable solely to the respondents themselves. The argument would also be in conflict with the mandate of Section 12(3) of the Industrial Disputes Act, 1947 which prescribes that any such compromise entered into



between the employer and employee is statutorily enforceable and binding. Hence the benefits of seniority and promotion and all other consequential benefit that enure in favour of an employee cannot be denied to him as any such denial would amount to breach of an enforceable settlement between the parties.

13. Consequently, the instant writ petition is **allowed**. The respondents are directed to grant notional benefits of regularisation to the petitioner w.e.f. date of promotion of his junior and actual benefits from the date of his joining. The respondent(s) shall undertake the exercise of re-calculating of admissible consequential benefits within a period of 03 months of receipt of a certified copy of this order. The benefits so assessed be disbursed in favor of the petitioner within a further period of 02 months.

14. In the event of the failure on the part of the respondent(s) in doing the needful, the petitioner shall be entitled to the interest @6% per annum on the delayed period of disbursement of the admissible benefits after expiry of the above period.

(VINOD S. BHARDWAJ)
JUDGE

25.04.2025

Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No