

2026:PHHC:001224-DB



LPA-1450-2024 (O&M) -1-

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

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LPA-1450-2024 (O&M)
Date of Decision : 09.01.2026

JAGDISH SHARMA

.... APPELLANTS

V/S

STATE OF HARYANA AND OTHERS

.... RESPONDENTS

**CORAM : HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE RAMESH CHANDER DIMRI**

Present : Mr.Nischal Chetanya Manchanda, Advocate
for the appellant.

Mr. Sourabh Mohunta, DAG, Haryana.

ASHWANI KUMAR MISHRA, J. (Oral)

1. This appeal arises out of the order dated 01.12.2023 passed by the learned Single Judge in CWP No.24146 of 2022.
2. The facts are noticed by the learned Single Judge according to which the appellant was appointed as a Octori Clerk for a period of 89 days on 16.12.1996. It is apparent that no process consistent with Article 16 of the Constitution of India was ever followed before appointing the appellant. The engagement otherwise was on account of en masse strike having been resorted to by the regular staff. The strike came to an end on 14.02.1997. Appellant's engagement was consequently discontinued. The appellant, however, was allowed to continue on account of an order passed by the Civil Court. The services of the appellant were also regularized on the vacant post of Clerk on 27.08.2008 respecting the orders passed by the Civil Court.



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3. It is in this context that the appellant claimed substantive appointment from the year 1996 on the ground that a vacancy existed which was rejected by the authority. The order of the authority dated 06.09.2022 in that regard was assailed before the learned Single Judge. The learned Single Judge was of the view that since the services of the appellant had already been regularized from 2008, as such, no illegality was found in the order of the authority dated 06.09.2022 refusing to grant regularization to the appellant from 1996.

4. It then transpires that a review was filed stating that the post of Clerk had, in fact, come into existence in 1997 itself and, therefore, the regularization ought to have been from 1997 and not from 2008. This review application was also rejected by the learned Single Judge. Both the orders of the learned Single Judge are assailed in this appeal.

5. Learned counsel for the appellant has taken us through the records to submit that various recommendations were made in favour of the appellant to be regularized from a date prior to the date on which he was actually regularised. He also submitted that once there existed a vacancy and the appellant was continued, as such, he ought to have been regularized from 1997.

6. Learned State counsel, on the other hand, opposes the prayer of the appellant on the ground that going by the nature of the appellant's engagement his status at best was that of the backdoor entrant and once the respondents had already taken a sympathetic view and regularized the services of the appellant in 2008, he must remain content with what he has already got and that he is not entitled to any further relief.



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7. The contention that similarly placed persons were granted employment from a previous date would not entitle the appellant to any parity in the present circumstances when the initial employment is *dehors* the recruitment rules and no statutory rule otherwise entitles the appellant to regularization from a date prior to 2008. Equality is a positive concept and no negative equality can be claimed.

8. We are, thus, inclined to accept the submissions of the respondents inasmuch as the records merely reveal that no process of recruitment was undergone before engaging the appellant. The engagement otherwise was during the strike period and the appointment was for a period of 89 days. The continuance of the appellant was pursuant to the orders passed by the Civil Court. In such circumstances, no provision in any applicable rule is shown to exist which would entitle the appellant to regularization from a date prior to the year 2008. We are of the view that the respondents have already been generous in extending relief to the appellant, which otherwise could have been questioned. In such circumstances any prayer for further relief cannot find approval of this Court.

9. The appeal stands dismissed accordingly.

10. Pending application(s), if any, shall also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

09.01.2026
Anju

(RAMESH CHANDER DIMRI)
JUDGE

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