

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115-63

CWP-24947-2018

VINOD KUMAR

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

1.	The date when the judgment is reserved	19.12.2025
2.	The date when the judgment is pronounced	21.01.2026
3.	The date when the judgment is uploaded	22.01.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	Not applicable

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vivek Khatri, Advocate with
Ms. Monika Khatri, Advocate
for the petitioner(s).

Mr. Deepak Balyan, Addl. A.G., Haryana.
Mr. R.D. Sharma, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

This Civil Writ Petition Under Article 226/227 of the Constitution of India has been filed for the issuance of a writ in the nature of certiorari for quashing the impugned order dated 12.03.2004 (Annexure P-3) and also quashing the Impugned order dated 06.03.2017 (P-9) whereby claim of the petitioner has

been rejected without considering the Judgment of the high court and the judgment of the Supreme Court and also without considering the judgment dated 19.08.2004 passed by the High Court in CWP No. 1998 of 2003 because the petitioner was similar situated person passed by the Superintending Engineer P.W.D Hisar i.e. respondent no. 3, whereby the services of the petitioner has been regularized w.e.f. 01.10.2003 instead of 01.02.1996 and also quashing the order dated 06.03.2017 (P-9) passed by the respondent no.2 i.e Engineer in Chief Haryana, Public Health Department, Panchkula.

The conspectus of Facts:

2. The petitioner was appointed as Beldar on daily wage/muster roll basis on 01.05.1993. Their work and conduct throughout remained satisfactory and no adverse remark or complaint was ever recorded against them.
3. The State Government of Haryana issued a regularization policy dated 07.03.1996 for work-charged/casual/daily rated employees who had completed five years of service as on 31.01.1996, subject to fulfillment of prescribed conditions. The said policy was subsequently modified vide circular dated 18.03.1996, whereby the requirement was reduced to completion of three years of service as on 31.01.1996.
4. Despite being eligible under the said policy, the services of the petitioner was regularized by the respondent-department only with effect from 01.10.2003 instead of 01.02.1996.
5. Similarly situated employees filed CWP No. 1998 of 2003, which was allowed by this Court on 19.08.2004 (Annexure P-4), directing regularization with effect from 01.02.1996 along with all consequential benefits. The challenge laid by

the State of Haryana up to the Supreme Court by way of SLP 4216-2005 failed, and the Civil Appeal NO. 1372-2007 was dismissed on 05.08.2015 (Annexure P-5). In compliance thereof, the respondent-department regularized the services of those petitioners w.e.f. 01.02.1996 with monetary benefits.

6. After dismissal of the State's appeal, the petitioner submitted representations dated 27.05.2016 (Annexure P-7) seeking similar relief.

7. However, the claim of the present petitioner was rejected on the ground of an interim stay relating to the regularization policy dated 16.06.2014, though the petitioner's claim arises under the policy of 1996.

8. Aggrieved by the discriminatory treatment and denial of parity, the petitioner has approached this Court seeking regularization of their services w.e.f. 01.02.1996 with all consequential benefits.

Contentions:

On behalf of the petitioner:

9. Learned counsel for the petitioners contends that the petitioner was appointed on daily wage/muster roll basis on 01.05.1993 and had completed the requisite qualifying service as per the regularization policy dated 07.03.1996 as modified on 18.03.1996, having worked for more than 240 days in each year and being in service on 31.01.1996.

10. It is argued that the services of the petitioner ought to have been regularized with effect from 01.02.1996, but the respondent-department arbitrarily regularized them only w.e.f. 01.10.2003, which is illegal and contrary to the policy.

11. Learned counsel submits that similarly situated employees were granted regularization w.e.f. 01.02.1996 pursuant to the judgment dated

19.08.2004 passed in CWP No. 1998 of 2003, which has attained finality up to the Supreme Court. The benefit of the said judgment has also been extended to other similarly situated persons, including Rajesh Kumar and Ramu Sharma pursuant to judgements of this court.

12. It is further contended that rejection of the petitioner's claim on the ground of stay of the policy dated 16.06.2014 is wholly misconceived, as the petitioner's claim arises under the 1996 policy and not under the policy of 2014.

On behalf of the respondent

13. Learned counsel for the State contends that the petitioners were rightly regularized in accordance with the applicable instructions and administrative requirements and that no illegality has been committed by the respondent-department in regularizing their services with effect from 01.10.2003.

14. It is submitted that the petitioners did not fulfill the eligibility conditions for regularization with effect from 01.02.1996, as they had not completed the requisite qualifying service strictly in terms of the policy instructions and departmental records.

15. Learned counsel further argues that the claim of the petitioners was duly considered by the competent authority pursuant to the directions issued by this Court and was rejected by a speaking order.

16. It is also contended that in view of the interim order passed by this Court staying further regularizations under the policy, coupled with the instructions issued by the Chief Secretary, no further regularization could be granted at the relevant time while submitting that the petitioners cannot claim

parity as a matter of right merely on the basis of orders passed in other cases, and each case has to be decided on its own facts and service record.

17. Heard counsel for both parties.

Analysis

Margin of appreciation and Judicial restraint

18. Judicial review in service jurisprudence is not confined to the margins of administrative discretion. Where State action results in unequal civil consequences, the Court is duty-bound to examine not merely the form but the substance of the decision-making process. The Supreme Court has repeatedly held that discretion in public employment is structured by constitutional discipline, and cannot be exercised to the detriment of equality.

19. In “*Maneka Gandhi v. Union of India (1978) 1 SCC 248*”, arbitrariness was held to be antithetical to the rule of law. Thus, where the State selectively applies a regularization policy, judicial review extends to correcting such constitutional aberrations. The impugned denial of ante-dated regularization, founded on re-opened facts and differential treatment, therefore squarely invites interference.

20. With this foundational principle, the Court now examines the facts of the present case and determines whether interference is justified. On careful consideration of the facts and pleadings, it is evident that the petitioners were appointed on daily wage/muster roll basis on 01.05.1993 and had continuously worked without any break. They clearly fulfill the conditions laid down in the regularization policy dated 07.03.1996, as modified on 18.03.1996, including

completion of three years of qualifying service and working for more than 240 days in each year.

Duty of the State

21. This court is of the opinion that the responsibility to identify, consider, and regularize eligible employees rested squarely upon the State. The failure of the respondents to discharge this obligation in a timely and lawful manner cannot now be used to the detriment of the petitioner. Administrative inaction or delay on the part of the State cannot be converted into a tool to deprive a workman of his accrued and legitimate rights. To permit such a course would be to allow the State to take advantage of its own wrong, an outcome wholly impermissible in constitutional jurisprudence.

22. The petitioner belongs to the lowest rung of public employment working as a Class IV worker, who has rendered continuous service as a Beldar since as far back as the year 1993. These are not abstract service rights but issues of livelihood, dignity, and social justice. To now deny the petitioner regularization from the 1996 Policy, when the right to regularization accrued to him, on the specious ground that the policy has subsequently been withdrawn is not merely arbitrary but it is shocking to the conscience of the Court. The withdrawal of a policy cannot operate retrospectively to extinguish rights that had already accrued, particularly when the delay in granting regularization is solely attributable to the State.

23. The petitioner continuously worked since 1993. Thus, by 1996, the petitioner had already rendered more than three years of service as prescribed under the policy. Once the petitioner's stood eligible under the 1996 policy, the

right to be considered for and granted regularization crystallized at that point in time. The respondents cannot resurrect a later policy framework to defeat that vested right, especially when similarly situated employees have been granted the benefit of regularization from an earlier date. Such selective application of policy results in hostile discrimination and creates an unreasonable classification devoid of any rational nexus with the object sought to be achieved.

24. The petitioner's entitlement under the Regularization Policy of 1996 is reinforced by the well-established doctrine of *Accrued or Crystallised Rights*. Once an employee fulfills all the conditions of a policy while it is in operation, the benefit is no longer contingent but becomes a vested entitlement which cannot be retrospectively defeated by subsequent administrative withdrawal. The petitioner having completed the qualifying service prior to the cut off date of the 1996 policy, his right to be considered for regularization stood crystallised on that date.

25. The State, as a model employer, is constitutionally bound to act fairly, reasonably, and with sensitivity toward its most vulnerable employees. Having accepted the petitioner's eligibility and regularized his services in substance, the respondents cannot deny him the consequential benefits in full measure. Any such denial would render the promise of equality illusory and legitimize a course of conduct that is capricious, unjust, and constitutionally impermissible.

Ante-dated Regularization

26. This court mindful of the fact that ante-dated regularization is a legal consequence and not an equitable indulgence. Where an employee satisfies the eligibility criteria under a policy at the time of its operation, regularization must

relate back to the date when the right first accrued. To grant regularization from a later date, without legal justification, is to truncate a vested right.

27. The jurisprudential foundation of ante-dating lies in the principle that the State cannot profit from its own delay or inaction. In ***Union of India v. Tarsem Singh (2008) 8 SCC 648***, the Supreme Court observed that where a continuing wrong affects service benefits, relief must be moulded to neutralise the injustice, notwithstanding the passage of time. Relevant extract is as follows:

“5. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. “

28. The subsequent regularization of the petitioner under a later policy does not obliterate his earlier entitlement. Acceptance of later regularization cannot be construed as waiver, particularly when the petitioner had been continuously asserting his claim. Constitutional rights are not surrendered by administrative acquiescence.

29. Importantly, law does not bar ante-dated regularization in cases where eligibility flows from a pre-existing policy and judicial determination. This position was clarified in ***“Hari Nandan Prasad v. Employer I/R to FCI (2014) 7 SCC 190”***, where the Supreme Court held that,

“However, wherever it is found that similarly situated workmen are regularised by the employer itself under some scheme or otherwise and the workmen in question who have approached Industrial/Labour Court are at par with them, direction of regularization in such cases may be legally justified, otherwise, non-regularization of the left over

workers itself would amount to invidious discrimination qua them in such cases and would be violative of Article 14 of the Constitution. Thus, the Industrial adjudicator would be achieving the equality by upholding Article 14, rather than violating this constitutional provision.”

30. Therefore, Ante-dated regularization does not amount to creating a new right retrospectively but it merely gives effect to an existing right that stood crystallized when the employee became eligible. It restores the employee to the position he would have lawfully occupied had the State discharged its constitutional and statutory obligations in a timely manner. Any contrary approach would undermine the rule of law and convert the State's failure into a justification for perpetual disadvantage to the employee. In this sense, ante-dating is not an exception to the law it is a constitutional imperative flowing from the principles of fairness, non-arbitrariness, and equality. It ensures that regularization remains an instrument of justice, not an act of charity, and that the State, as a model employer, is held to standards consistent with constitutional morality.

Consequence of subsequent withdrawal of policy

31. Another contention of the state that the policy claimed by the petitioner by way of this petition stands withdrawn by the State of Haryana pursuant to orders of this Court. The present petition does not seek the grant of regularization per se, rather it is confined to the claim for ante-dated regularization, which the petitioner is otherwise entitled to. Consequently, the quashing of the policy has no bearing on the relief sought in the present proceedings.

32. In the instant case, admittedly the petitioner has been working since 1993 i.e., more than 2 decades as on date, but for one or the other reason taking excuses, the respondent-State has absolved itself from the duty as a socialistic welfare State, which otherwise tantamount to unfair labour practice or unfair means on its part to avail the services of such petitioners to their own advantage, who have devoted more than 60 % of life span for a meager amount, which may not be even sufficient to maintain themselves what to talk of their dependents in the family.

Parity with Similarly Situated Employees

33. It is pertinent to note that the petitioner has placed on record material to show that several employees working on Group-D posts in the same department, performing identical duties and governed by the same policy framework, have been granted the benefit of ante-dated regularization. The respondents, though admitting such regularization, seek to distinguish the petitioner on the basis different factual aspects and the subsequent withdrawal of the policy. However, both these grounds, as already discussed, do not withstand legal scrutiny.

34. Equality before law requires that persons similarly situated must be treated alike. Any State action which suffers from arbitrariness is violative of Article 14 of the Constitution. The Supreme Court in “***E.P. Royappa v. State of Tamil Nadu, (1974) 4 SCC 3***”, held that arbitrariness is the very negation of equality. Where a policy has been applied in favour of certain members of a class, its denial to another member of the same class, without any rational or intelligible basis, renders the action discriminatory. The respondents have not been able to

point out any legally sustainable distinction between the petitioner and those who have already been regularized.

Conclusion:

35. In view of the discussion on the foregoing issues, ante-dated regularization is not a matter of concession but a constitutional imperative. The denial thereof undermines judicial finality, rewards administrative delay, and fractures the principle of equality in public employment.

36. Therefore, the impugned action is not sustainable in law and thus the order dated 16.08.2024 (Annexure P-10) is hereby quashed. The petitioner is entitled to ante-dated regularization from the date on which he became eligible under the prevailing policy of 1996, with all consequential service benefits.

37. The respondent-department is ordered to grant the petitioner the benefit of ante-dated regularization under the 1996 policy w.e.f 01.02.1996 and release all consequential benefits and arrears of pay along with interest of 6% per annum from the date of accrual till the date of its actual realisation within three months from the date of receipt of certified copy of this order.

38. Petitions stands allowed with above said observations.

39. Pending application(s), if any also stands disposed of.

(SANDEEP MOUDGIL)
JUDGE

21.01.2026

anuradha

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