

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7548-2018

GULAB SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA AND ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Jagjeet Beniwal, Advocate
for the petitioner.

Mr. Deepak Balyan , Addl.AG, Haryana

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

SANDEEP MOUDGIL, J (ORAL)

Prayer:

1. The petitioner has approached this Court under Article 226 of the Constitution of India seeking quashing of impugned order 27.05.2016 (Annexure P-2) and direct the respondents to restore the order dated 17.05.2016 (Annexure P-1) by regularizing the petitioner’s services w.e.f. 01.03.1997 with all consequential benefits.

Factual Matrix :

2. The petitioner was engaged as a Conductor in the Haryana Roadways during the strike period of December 1993. He joined duties on 07.12.1993 at Jind Depot and worked up to 20.12.1993. After the strike ended, his services were terminated on 21.12.1993.

3. Several similarly situated persons, who were engaged during the same strike period and whose services were also terminated, made representations to the authorities and even certain employees approached this Court, leading to directions for consideration of their claims. Pursuant thereto, the petitioner was re-appointed and joined service on 01.06.2004 and has continued in service since then.

4. The services of such re-appointed employees were regularized by the department from different dates. In the case of the petitioner, his services were initially regularized from 01.07.2008. However, the services of several similarly situated employees were regularized from earlier dates, including 01.01.1996 and 01.03.1997.

5. On the petitioner's representation claiming parity with similarly situated employees, respondent no. 3 passed an order dated 17.05.2016(Annexure P-1) regularizing the petitioner's services retrospectively from 01.03.1997.

6. Subsequently, respondent no. 3 issued another order dated 27.05.2016 (Annexure P-2) withdrawing the earlier order dated 17.05.2016. The withdrawal order did not grant any opportunity of hearing to the petitioner.

7. The petitioner submits that orders regularizing the services of other similarly situated employees from 01.03.1997 or 01.01.1996 continue to remain in

force and have not been withdrawn. The petitioner's request for restoration of the order dated 17.05.2016 was not accepted by the respondents.

8. Aggrieved by the withdrawal of the regularization benefit the petitioner has filed the present writ petition seeking appropriate relief under Articles 226/227 of the Constitution of India.

Contentions:

On behalf of the petitioner:

9. Learned counsel for the petitioner submits that the impugned order dated 27.05.2016 (Annexure P-2) withdrawing the benefit of regularization is arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India, as similarly situated employees appointed during the same strike period have been regularized from 01.03.1997 or even earlier, and their orders continue to remain intact.

10. It is contended that the petitioner stands on the same footing as other conductors appointed during the December 1993 strike, whose services were terminated and later re-appointed, and who have been granted regularization from earlier dates I,e 01.01.1996. Denial of the same benefit to the petitioner amounts to hostile discrimination. The order dated 17.05.2016 (Annexure P-1) regularizing the petitioner's services from 01.03.1997 created a vested right in favour of the petitioner.

11. The learned counsel submits that before passing the impugned order dated 27.05.2016, no notice or opportunity of hearing was afforded to the petitioner. The order, therefore, suffers from gross violation of the principles of natural justice and is liable to be set aside on this ground alone.

On behalf of the respondents:

12. The learned State counsel submits that the petitioner was engaged purely as a stop-gap arrangement during the strike period in December 1993 and his services were validly terminated on 20.12.1993 after the strike ended. Thereafter, the petitioner was not in service and had no subsisting right or continuity of service till his fresh appointment on contractual basis on 01.06.2004. Consequently, the petitioner's service tenure can only be counted from the date of his fresh appointment and not from any earlier date.

13. The learned State counsel argues that the order dated 17.05.2016, whereby the petitioner's services were shown to be regularized w.e.f. 01.03.1997, was patently erroneous and contrary to record, as the petitioner was admittedly not in service on the said date. It is further contended that no vested or enforceable right accrued in favour of the petitioner on the basis of an order which was illegal and issued due to mistake. An authority is well within its power to recall or withdraw an erroneous order.

14. Lastly he folds his submissions by arguing that he cannot claim parity with other employees who were in continuous service or whose cases were governed by different facts.

15. Heard.

Analysis:

16. Having heard the submissions advanced by counsel for both parties and perusing the material placed on record. This court finds that the present writ petition involves a claim for restoration of regularization of service granted to the petitioner w.e.f. 01.03.1997, which was subsequently withdrawn by the respondents vide order dated 27.05.2016 (Annexure P-2). The key questions are

whether the withdrawal was lawful, and whether the petitioner, being similarly situated to other employees, is entitled to the benefit of retrospective regularization along with all consequential benefits.

Margin of appreciation and Judicial restraint

17. 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.

18. In “*Maneka Gandhi v. Union of India (1978) 1 SCC 248*”, the apex court held that arbitrariness is 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 a fair consideration for regularization, founded on re-opened facts and differential treatment, therefore squarely invites interference.

19. With this foundational principle, the Court now examines the facts of the present case and determines whether interference is justified.

20. At the outset, it is not in dispute that the petitioner was engaged during the strike period of December 1993 and his services were terminated after the strike period ended on 20.12.1993. and was subsequently re-appointed on 01.06.2004 pursuant to policy decisions and judicial directions, in the same manner as other employees who were engaged during the said strike. The record further reveals that several similarly situated conductors, engaged during the same strike period and re-appointed thereafter, have been granted regularization from

01.01.1996 or 01.03.1997, and such orders have neither been withdrawn nor disturbed by the respondents.

21. It is a settled principle of law that similarly situated persons must be treated alike, and any deviation without reasonable classification is violative of Articles 14 and 16 of the Constitution of India. Once the respondents themselves have adopted a consistent practice of granting regularization from 01.03.1997 to employees appointed during the strike period, denial of the same benefit to the petitioner amounts to hostile discrimination. The State cannot pick and choose individuals for granting or denying benefits under the same set of facts.

22. 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.

23.. The contention raised by the respondents that the petitioners cannot seek parity with other employees on the ground that Article 14 of the Constitution of India does not envisage negative equality, though well settled as a proposition of law, does not advance the case of the respondents in the facts and circumstances of the present matter.

24. In the present case, the respondents have failed to establish that the regularization of other similarly placed employees was illegal, arbitrary, or

contrary to the governing policy. On the contrary, the material placed on record indicates that such employees were regularized by the respondents themselves under the prevailing policy framework. Once the respondents have consciously implemented the policy in favour of certain employees who are similarly circumstanced as the petitioner, they cannot selectively deny the same benefit to the petitioner without demonstrating any intelligible differentia.

25. Moreover, it is equally well settled that while the Constitution does not mandate negative equality, it equally prohibits hostile discrimination and arbitrary State action. Where the State has adopted a uniform policy and applied it to a class of employees, denial of the same benefit to others belonging to the same class, without justifiable reasons, would amount to violation of Article 14. The respondents cannot take shelter behind the principle of negative equality to justify unequal treatment when their own action in regularizing other employees has not been shown to be illegal or void ab initio.

26. Further, the order dated 17.05.2016 granting regularization to the petitioner w.e.f. 01.03.1997 was passed after due consideration of the petitioner's claim of parity. The said order conferred a substantive and enforceable right upon the petitioner. An administrative order, once validly passed and acted upon, cannot be withdrawn arbitrarily, particularly when no fraud, misrepresentation or suppression of facts is attributed to the petitioner. The subsequent withdrawal order dated 27.05.2016 (Annexure P-2) does not assign any reasons nor does it disclose any material justifying reversal of the earlier decision.

27. The contention of the State that the petitioner was not in service on 01.03.1997 cannot be accepted in isolation. The concept of retrospective regularization has already been applied by the respondents in the cases of similarly situated employees, even though they too were re-appointed after termination. Having extended the benefit of retrospective regularization to others, the State is estopped from denying the same benefit to the petitioner on identical facts.

28. It is also well settled that the State is expected to act as a “model employer”. Fairness, non-arbitrariness and equality are the hallmarks of State action in service jurisprudence. The conduct of the respondents in withdrawing the petitioner’s regularization vide order dated 27.05.2016 (Annexure P-2) while continuing to grant and protect the same benefit to others reflects an approach more akin to that of a private litigant than a welfare State. Such an approach is impermissible in law.

29. Moreover, the withdrawal of the order dated 17.05.2016 (ANNEXURE P-1) was effected without affording any opportunity of hearing to the petitioner. Even if the respondents believed the earlier order to be erroneous, the minimum requirement of adherence to the principles of natural justice had to be followed, especially when the withdrawal resulted in serious civil and financial consequences for the petitioner.

Conclusion:

30. In view of the above facts, circumstances, and settled legal position, it is evident that the petitioner has been treated differently from similarly situated employees, and the impugned order dated 27.05.2016 is arbitrary, discriminatory,

and violative of Articles 14 and 16 of the Constitution of India. Considering the long years of dedicated service rendered by the petitioner and the principle that the State, as a model employer, must act fairly and justly, it is most just and equitable that the petitioner be restored to the position lawfully granted to him.

31. Accordingly, this Court quashes the impugned order dated 27.05.2016 (Annexure P-2) and Restore the order dated 17.05.2016 (Annexure P-1) regularizing the petitioner's services w.e.f. 01.03.1997; and Direct the respondents to revise the pay scale and release all consequential benefits, allowances, and arrears due to the petitioner, thereby ensuring that justice, fairness, and equity are fully achieved .Such relief will not only rectify the injustice suffered by the petitioner but also reinforce the State's role as a fair and compassionate employer, upholding the dignity and rights of its employees. Therefore, interest at the rate of 6% per annum is ordered on the arrears, from the date they fell due until their final payment, as a modest yet necessary acknowledgment of the petitioners' long-delayed rights.

32. All miscellaneous applications also stand disposed of accordingly.

33. The petition stands allowed in the aforesaid terms.

21.01.2026
anuradha

(SANDEEP MOUDGIL)
JUDGE

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