
(2018) 10 P&H CK 0237
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No.2009 Of 2016

Balwinder Singh And Ors

APPELLANT

Vs

State Of Haryana And Ors

RESPONDENT

Date of Decision : 04-10-2018

Acts Referred:

Citation : (2018) 10 P&H CK 0237

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : Rakesh Nagpal, Lokesh Sinhal, Kiran Pal Singh

Final Decision : Disposed off

Judgement

Ritu Bahri, J.

This order shall dispose of petitions bearing CWPs- 1509-2018, 12561-2017, 12859-2017, 11495-2017, 11622-2016, 14770-2016, 14814- 2016, 13804-

2016, 19621-2018, 19983-2017, 15147-2017, 15148-2017, 15149-2017, 18883-2017, 18884-2017, 18885-2017, 15891-2017, 9264- 2018, 9265-2018,

24286-2017, 15128-2018, 5879-2017, 5880-2017, 5881- 2017, 5882-2017, 26894-2016, 11856-2018, 26919-2016, 26991-2016, 6138-2016, 6020-2016,

5276-2016, 28194-2017, 4397-2017, 18936-2017, 13894-2017, 6350-2016, 27416-2016, 28242-2017, 8556-2018, 26421- 2017, 27417-2016, 27426-2016,

6393-2016, 1790-2017, 9834-2016, 1848- 2017, 9883-2016, 17208-2018, 17478-2018, 19793-2017, 18339-2018 and 17467-2018.

The above said writ petitions pertain to regularization of employees and they fall in the following categories:-

1. As per the award passed by the labour Court continuity of service alongwith 50%/25% backwages has been given. The labour Court award has

attained finality. In those cases, the State Government will consider and pass appropriate orders.

2. On account of lack of sanctioned posts, the case of some of the daily wagers have not been finalized for regularization. As held by Division Bench

of this Court in *Badlu Ram and others V/s. State of Haryana and others* 2000(3) SCT 288 where it has been held that once the respondents have

engaged the workers for doing work of continuous nature, it is unfair to decline regularization due to non-availability of post and over-age.

3. Daily wagers are claiming parity to regularize their services at par with their juniors. The Supreme Court in the case of *Malathi Das (Retd.)* now

P.B. Mahishy & others V/s. Suresh and others, 2014 (13) SCC 249, has laid down that parity has to be maintained by the State in regularizing the

employees. In some cases, regularization has been done after the decision of Hon'ble Supreme Court in *State of Karnataka V/s. Uma Devi* etc.

(2006) 4 SCC 1, the other similarly situated employees cannot be denied regularization on the ground that regularization policies have been withdrawn.

4. The regularization of some of the daily wagers is also being held up on the ground that they do not fulfill the educational qualification of the posts for

which they are seeking regularization. The daily wagers after having served for about 20 to 30 years, their claim cannot be rejected on the ground that

they are not qualified as after serving for such a long time, their experience in itself becomes a qualification. The Division Bench of this Court in the

case of *Vidya Devi V/s. State of Haryana* 2004 (6) SLR 470, has examined this issue in the case of part time employees working in the Education

Department for regularization. They had worked for almost 7 years and the Division Bench held that their claim could not be declined on the ground

that they do not possess essential qualification.

5. While examining the case of regularization of part time employees, reference can be made to a judgment passed in *Umed Singh V/s. State of*

Haryana and others 2001(3) S.C.T. 79, the claim of the petitioners for regularization cannot be denied on the ground that they have become over-age.

In *Desraj V/s. State of Haryana* 2003 (4) SCT 264, this Court has held that the Court does not have right to play with the lives of the employees by

adopting questionable method, a part time employee who has completed 5 years become entitled for regularization, and they cannot be denied this

benefit that they do not possess 3 years continuous service and requisite qualification.

6. With respect to the regularization of part time employees after the judgment taken in the case of State of Karnataka V/s. Uma Devi etc. (2006) 4

SCC 1, the State of Haryana issued notification on 29.07.2011 whereby as a one time measure, benefit of regularization has been extended to those

part time employees who have completed 10 years of service as on 10.04.2006. This Court in the case of Gian Chand and others V/s. Haryana Vidyut

Parsaran Nigam Ltd. and others, CWP-11368-2012 decided on 22.04.2014, has allowed the writ petition whereby a part time Water Carrier cum Mali

had been working since 1981 and had not been regularized and the writ petition was allowed and he was directed to be regularized. The LPA-1126-

2014 against the said judgment has also been dismissed on 17.07.2014 and even SLP-31306-2014 was also dismissed on 07.01.2015. The case of the

part time employees who have completed 10 years of service on 10.04.2006 as per policy dated 29.07.2011 shall also be considered for regularization.

7. The State is in the process of recruiting 18218 Group-D employees vide advertisement No. 04/2018 dated 26.08.2018 and while considering the

case of regularization of all the daily wagers who are covered by the policy upto 01.10.2003 including 29.07.2011 policy, the State will not raise an

objection with regard to financial implication.

The issue with regard to regularization has been clarified and adjudicated upon by the Supreme Court as well as Division Bench of this Court, the writ

petitions are being disposed of by giving three months time commencing from 01.11.2018 to 01.02.2019 to the different departments of the Haryana

State to consider the case of the petitioners as per the facts of each case and pass regularization orders at par with the juniors or similarly situated

employees without insisting upon eligibility condition of qualification, over-age etc. After 01.02.2019, the Departments will inform the Registry of this

Court with respect to the orders passed by them. In case no order is passed, in that eventuality, Rs.50,000/- as cost will be deposited in the account of

the each petitioner, who have been waiting for years to get the benefit of regularization being from the lower strata of the society. The Court has been

observing that in some of the cases, the daily wagers after serving for almost 20 to 25 years, have expired and their widows are not able to get family

pension on account of the fact that their husbands' services had not been regularized, hence imposition of cost is to curtail the agony of widows/victims

who are sometimes even unable to approach this Court for the necessary relief. Further direction is being given that the decision taken by the

Government to regularize the services after creating diminishing cadre posts, as per the regularization policies upto 01.10.2003 and 29.07.2011, will be

applicable to all the autonomous bodies, Board, Corporation and Universities.

Since the above said writ petitions have been disposed of, miscellaneous applications, also stand disposed of.