
(2013) 11 P&H CK 0062
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 904 of 2011 (O&M)

Chander Bhan

APPELLANT

Vs

Punjab National Bank

RESPONDENT

Date of Decision : 08-11-2013

Acts Referred:

Citation : (2014) 2 SCT 570

Hon'ble Judges : Ajay Tewari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ajay Tewari, J.—By this petition the petitioner has claimed regularisation from the date his junior was regularised. The petitioner was initially appointed as a driver on fixed salary on 16.03.92. In the year 1996 his services were terminated. This termination was initially challenged by him in a civil suit which was dismissed as withdrawn and he was permitted to go before the Industrial Tribunal. The Industrial Tribunal set aside the termination order and directed reinstatement with continuity of service with all consequential benefits. The respondent-bank carried the matter right up to the Hon''ble Supreme Court wherein its SLP was dismissed on 21.04.2006. Thereafter the petitioner was reinstated. Subsequently he made an application that services of one Yoginder Kumar Yadav who was admittedly junior to him were regularised w.e.f. 22.12.2003 and prayed that he be regularised with effect from the same date because at that time his case could not be considered since he had been wrongly(as it turned out) made out of service. The prayer having been denied the parties are before this Court.

2. In the written statement no reason has been given as to why the petitioner was not considered for regularisation when the aforesaid Yoginder Kumar Yadav was so considered. The only plea taken is that the petitioner has not impleaded the junior most regularized person as a party because in case services of the petitioner are regularised such junior person would have to be reverted. I see no

justification for this stand. In the first instance the bank made the petitioner stay out of service illegally for a period of 10 years and it is now refusing to, give him the benefits which were granted to other similarly situated employee only on the premise that such an employee would necessarily have to be reverted in case the relief is granted to the petitioner and such person is no a party before this Court.

3. In my considered opinion the stand of the bank is flawed. The present is not a case where the petitioner is claiming regularisation vis-?-vis some body else who was also regularised 10 years ago. It would be extremely unfair to now victimise that person who may have been regularised a decade ago. The only option for the bank would be now to regularise the services of the petitioner with effect from the date the aforesaid Yoginder Kumar Yadav was given the said benefit. At the cost of repetition it is again mentioned that the whole trouble arose only because of the action of the bank in wrongly and illegally terminating the services of the petitioner in the year 1996. Had that illegality not been committed the petitioner would have been considered for regularisation as per his seniority and now the bank cannot deny the benefit to the petitioner by this legal stratagem. In the circumstances the writ petition is allowed. Let the necessary action of regularisation of the petitioner with all other consequential benefits as indicated above be carried out within a period of three months from the date of receipt of a certified copy of this order.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.