

(2015) 05 P&H CK 0437

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 18758 of 1995 (O&M)

Mahender Singh and Others

APPELLANT

Vs

Huda and Others

RESPONDENT

Date of Decision : 04-05-2015

Acts Referred:

Citation : (2015) 3 LLJ 389

Hon'ble Judges : Ajay Tewari, J

Bench : Single Bench

Advocate : R.K. Malik, Senior Advocate and Kuldeep Sheoran, for the Appellant;
Ashok Singh Chaudhary, A.A.G, Advocates for the Respondent

Final Decision : Allowed

Judgement

Ajay Tewari, J—By this writ petition the petitioners have claimed regularisation w.e.f. 01.04.1993. At the very outset, learned counsel for the petitioners states that he does not press the petition qua petitioners No. 3, 5 and 11 and prays that the petition may be dismissed qua them.

2. Ordered accordingly.

3. The petitioners were appointed on daily wage basis as per the details given below and they were continued to work until 31st March, 1993:

4. The Government of Haryana issued a notification dated 11th May, 1994 for regularising the services of ad hoc and daily wage employees. It was laid down that those who had completed five years service on 31st March, 1993 on a Class-III post would be entitled for regularisation. It was further clarified that those persons who had completed 240 days service in each year would be construed to have completed one year of service provided the gap in service was not more than one month at a particular time. However, learned senior counsel for the petitioners has pointed out that in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, AIR 2006 SC 1806 : (2006) 6 CompLJ 1 : (2006) 4 JT 420 : (2006) 2 LLJ 722 : (2006) 4 SCALE 197 : (2006) 4 SCC 1 :

(2006) 3 SLJ 1 : (2006) AIRSCW 1991 : (2006) 3 Supreme 415 the Hon''ble Supreme Court has itself clarified that those persons who had been in service for 10 years as on the date of that decision should be considered for regularisation and as per him petitioners having been appointed in the year 1988 as detailed above should have been considered on that basis.

5. The only ground taken to deny the benefit of regularisation to the petitioners w.e.f. 01.04.1993 was an assertion that they were not in service on 01.04.1988.

6. Learned senior counsel for the petitioners has argued that this reasoning is most untenable especially since the Government has clarified that to compute one year service for a daily wager, it would be enough if he has completed 240 days in the calendar year. As per him, the mere fact that petitioners were appointed after 01.04.1988 would not be relevant once it was shown that they satisfied the parameter of 240 days of service in the calendar year and there was no gap longer than one month during the period of their employment.

7. In my opinion, the arguments of the learned senior counsel for the petitioners will have to prevail and it has to be held that the mere fact that they were not in service as on 01.04.1988 would not disentitle them for regularisation. The only ground taken to deny the benefit of regularisation to the petitioners w.e.f. 01.04.1993 was the assertion that they did not complete 5 years service. It is not disputed that the petitioners' services have now been regularized but with effect from a much later date. However, as on 01/04/1993 the petitioners have to be held to have completed the period of 5 years in terms of the policy. Further as per the decision in *State of Karnataka v. Uma Devi* (supra), also, the petitioners have to be considered for regularisation since by the time that judgment came the petitioners had more than 10 years service.

8. In the circumstances, the petition is allowed qua petitioners 1, 2, 4, 6 to 10 and 12. It is further directed that the petitioners' date of regularisation would be taken as 01.04.1993 and they would be entitled to all consequential benefits. Let the necessary exercise to advance the date of regularisation and to compute the benefit to be completed within a period of six months from the date of receipt of a certified copy of this order and the necessary benefits be granted to them within the aforesaid period. Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.