
(2021) 02 P&H CK 0418

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 19779 Of 2017(O&M)

Pawan Kumar &Anr.

APPELLANT

Vs

State Of Punjab &Ors.

RESPONDENT

Date of Decision : 26-02-2021

Acts Referred:

Citation : (2021) 02 P&H CK 0418

Hon'ble Judges : Arun Monga , J

Bench : Single Bench

Advocate : K.L. Arora, Sudeepti Sharma, Nitin Kaushal

Final Decision : Allowed

Judgement

Arun Monga, J. (Oral)

1. This is second foray of the petitioners before this Court.
2. Concededly, the petitioners, joined respondent No.3/Municipal Committee as Safai Sewaks on 01.02.1994 and initially they unsuccessfully challenged the termination of their services with effect from 01.07.1997 before the Labour Court. That led to filing of CWPs No. 8187 and 8388 of 2012 before this Court in the earlier round of litigation. The writ petitions were allowed vide an order dated 18.02.2015 passed by this Court and the petitioners were reinstated into service with back wages and continuity of service.
3. The grouse of the petitioners is that though they were reinstated into service, but their services were not regularized, while juniors to them were accorded the benefit of regularization. According to the petitioners, since they were reinstated into service with continuity of service, they are also entitled to the same benefit as has been given to their juniors.

4. The claim of the petitioners has been resisted by the respondents, inter alia, on the ground that regularization policy, which was for a specified period, was introduced in 2011. The petitioners were not in service during the existence of the policy, as such the benefit thereof was accorded only to the employees who were working at the relevant time.

5. I have heard learned counsel for the parties and perused the paper-book.

6. Irrefragably, the factual position herein is that while juniors to the petitioners are already regularised but the petitioners despite being seniors have not been accorded similar benefit.

7. It is also not in dispute that services of the petitioners are still required. They are uninterruptedly working as Safai Sewaks since 01.02.1994, though with break in their service which too was deemingly condoned by virtue of an order dated 18.02.2015 passed by this Court in an earlier round of litigation instituted by the petitioners, whereby petitioners were reinstated with continuity in service.

8. Learned counsel for respondent No.3-Municipal Committee seeks to justify the discrimination qua the petitioners on the ground that, at the time of applicable regularization policy, when the services of juniors were regularized, the petitioners were not in service and since litigation qua termination of their services was going on before Labour Court. However, he does not dispute that adverse award dated 01.02.2012 given by the Labour Court against the petitioners was set aside by this Court in CWP No. 8187 of 2012 and 8388 of 2012 and a mandamus was issued to the Respondent Committee vide order dated 18.02.2015 to reinstate the petitioners with back wages and continuity of service.

9. Aforesaid being the position, the case of the petitioners is squarely covered by Division Bench judgment of this Court rendered in Ajmer Singh Vs.

State of Haryana &Ors. , wherein services of similarly situated employees were directed to be regularized, by observing as under:-

3. Petitioner cannot be said to have not completed 5 years service on 31.1.1996. The date mentioned in the Government instructions is 31.3.1993 and not 31.1.1996 as contended by the respondents. However, even consider the date of 31.3.1993, the petitioner cannot be said to have not completed five years as he joined services in the year 1982 though when the instruction was issued on 27.5.1993, the petitioner was out of job. The

award of the Labour Court gave him relief of continuity of service and he is deemed to be in job on that date and his termination has been wiped out

by the award of the Labour Court. This being the position, the petitioner could not have been denied the benefit of the instructions.â??

10. Resultantly, the instant writ petition is also allowed. Respondent No.3 is directed to regularize the services of petitioners with effect from

20.12.2011 when their juniors were accorded the benefit of regularization, with all consequential benefits. However, the arrears of financial benefits of

retrospective regularization are confined from the date when the petitioners actually rejoined duty on reinstatement into service. Remaining financial

benefits be released to the petitioners along with interest @ 6% per annum from the due date of their payment. Needful be done within a period of

three months from the date of petitioners approaching the respondent No.3-Committee along with print out of this order taken from the website of this

Court.