
(2002) 12 P&H CK 0020

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12833 of 2000

Roop Lal and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 05-12-2002

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2003) 2 LLJ 436 : (2003) 133 PLR 847

Hon'ble Judges : Viney Mittal, J; Swatanter Kumar, J

Bench : Division Bench

Advocate : K.S. Dadwal, for the Appellant; Ashok Aggarwal, for the Respondent

Final Decision : Allowed

Judgement

Swatanter Kumar, J.—In this petition under Articles 226/227 of the Constitution India, the petitioners pray that the order dated 5.9.2000. Annexure P/5 to the petition, be quashed and respondents be directed to regularise the services of the petitioners on the respective posts they were holding for the last more than 10 years. The petitioners joined the service of the State on daily wages a labourers From the date of their appointment, they are working continuously. They claim to have worked to the satisfaction of all concerned. According to the petitioners they are being given wages as per Deputy Commissioner's rates. Government of Punjab on 18.1.1995 issued instructions that the ad hoc/ temporary employees who have completed 240 days as on 31.12.1994 be regularised. These instructions were subsequently withdrawn and fresh instructions are issued on 20.1.1995 stating that the daily wagers who have completed 10 years of service on 31.12.1994 be regularised. Further the petitioners contended that then case is squarely covered under the policy for regularisation and despite the feet that they have made various representations, services of the petitioners were not regularised compelling them to file CWP No. 5431 of 2000 in this Court and the respondents were directed to consider the claim of the petitioners and pass appropriate orders on the said representations.

The claim of the petitioners, has been rejected finally by the respondents vide their order dated 5.9.2000 which has been challenged in this petition.

2. Upon notice, the respondents have filed a detailed reply stating that the petitioners were never appointed through proper channel and against regular posts, but they were engaged for plantation and other ancillary purposes during the season. It is also stated that they are not covered under the Government instructions. The employment of the petitioners was of a temporary nature and they have no right to the posts. As such the writ petition is liable to be dismissed.

3. It is not dispute before us that the petitioners were not engaged as labourers and have put in considerable period of service even prior to 1995. The Governor of Punjab had issued a notification/policy on 20.1.1995 which admittedly was in force at the relevant time stating that the service of all work charge employees, casual and daily wagers in Punjab Government in various departments shall be regularised subject to the conditions stated in the policy. This policy has been annexed to the writ petition as Annexure P/2. Under condition No. 6 of the said policy, it has been stated as under:-

"(vi) Daily wages employees, who have completed 10 years, or more service as on 30th November, 1994 shall be considered by screening review committee constituted by Head of Department, for regularisation, on the availability of posts. Such employees shall be entitled for minimum of the pay scale with effect from the date of their regularisation i.e. 1st December, 1994. On regularisation, these employees shall be liable for transfer anywhere in the State."

Despite the above clear policy of the State, the claim of the petitioners including Roop Lal, was not accepted by the State Government and vide order dated 5.9.2000 the petitioners were informed as under:-

"This Screening Review Committee after observing the details carefully found that Sh. Roop Lal, Sh. Satpal, Smt. Kulwant Kaur Saini, Sh. Gumam Singh and Sh. Kabal Singh petitioners did not fulfil the conditions laid down by policy of the State Government and therefore, it could not recommend the case of the petitioners for regularisation. A copy of the minutes of the Screening Committee meeting dated 8.8.2000 are enclosed for your notice."

Above was the stand of the State when they replied to the legal notice served by the petitioners. However, before this Court the stand of the respondent-State is different. It is not stated that they are not eligible to be appointed or they do not satisfy the prescribed conditions, but in reply to paragraph No. 13 of the writ petition, the only excuse given is that there are no vacant posts. The said paragraph reads as under:-

"That in reply of the para No. 13 of the writ petition it is submitted that in the light of Punjab Govt. Notification No. PP-III dated 23.1.200) the case for the regularisation of service of the petitioners considered by the Chairman-cum-DFO Screening Reviews Committee, Ludhiana on dated 3.5.02 (copy attached) to fit

for regularisation subject to the condition that availability for posts and according to the seniority laid by the screening review Committee. The case has been considered by this office, but there is no vacant post of such type in this division. Whenever it will be available the said petitioners will be considered on priority basis according to seniority and in this regard the petitioners have been intimated on 12.7.2002."

Once the State formulates policy of regularisation, it is obligatory on their part to implement the same free of discrimination and arbitrariness. The contradictory stand taken by the State in the above paragraph could not be explained by the learned counsel for the State. It has not been stated specifically as to which of the petitioner does not satisfy which condition of the policy Annexure P/2 to the writ petition. Now since the petitioners have been considered and found eligible to be appointed, but the appointment is denied to the petitioners for want of vacant posts. The contention of the petitioners that the regularisation could be denied for want of vacant posts can hardly be an excuse for rejecting the claim of the petitioners. It was so held by a Division Bench of this Court in the case of Surinder Singh and Ors. v. State of Haryana and Ors., C.W.P. No. 11232 of 2001, decided on 27.11.2002 while following the judgments of the Hon"ble Supreme Court in the case of State of Haryana and others Vs. Piara Singh and others etc. etc., and Polu Ram and Anr. State of Haryana and Anr. 1998(4) R.S.J. 152.

4. For the reasons afore-stated we allow this writ petition and direct the respondent to abide by their stand taken in paragraph No. 13 of the written statement; consider the case of the petitioners for regularisation and grant them the relief in accordance with law and their policy decision Annexure P/2. However, the parties are left to bear the own costs.

Sd/- Viney Mittal, J.