
(2003) 02 P&H CK 0034
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 7093 of 2000

Satya Naryan, Sudama and Dalbir

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 18-02-2003

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2003) 02 P&H CK 0034

Hon'ble Judges : Mehtab S. Gill, J

Bench : Single Bench

Advocate : I.D. Singla and Vinod Bhardwaj, for the Appellant; G.M. Singhwal, AAG, for the Respondent

Final Decision : Dismissed

Judgement

Mahtab S. Gill, J.—In Civil Writ Petition Nos. 7093, 17145 and 6764 of 2000, the facts as well as questions of law are similar. Therefore, all the three writ petitions are being disposed of by this common order. However, facts have been extracted from Civil Writ Petition No. 7093 f 2000.

2. Petitioners have prayed for the issuance of a writ in the nature of Mandamus for directing the respondents to regularise their services with all consequential benefits, in view of policies dated 7.3.1996 and 18.3.1996 (Annexures P-2 and P/2-A).

3. Petitioners have averred that they were appointed as Beldars on daily wages by respondent No. 3. They joined service in the years 1987 and 1989 and continued without break till August 1, 1994. Their services were terminated by respondent No. 3, without giving any notice.

4. Petitioners have further averred that demand notices were issued and their cases were referred to the labour Court. Labour Court passed awards in their favour, which are attached as Annexures P-1, P/1-A and P/1-B respectively.

5. Petitioners have further averred that State of Haryana, respondent No. 1, framed a policy for regularisation of services of those employees who had completed five years of service on 7.3.1996. The conditions laid down were, that the employees who have completed five years of service on 31.1.1996 shall be regularised provided they have worked for a minimum period of 240 days in each calendar year and the break in service in any year, should not be more than one month at a time. The employees may be casual and daily wagers. This policy was modified to the extent that the period of service from 31.1.1996 was reduced from five years to three years. Copies of policies are attached as Annexures P-2 and P/2-A.

6. It has been further averred that vide award dated 29.1.1998 passed by the Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak, the petitioners were reinstated, but without back wages.

7. Notice of motion was issued.

8. Learned counsel for the respondents has stated that the petitioners did not come under the policies framed by the State of Haryana, Annexures P/2 and P/2-A. Learned counsel for respondents has further stated that, going through para No. 3 of the written statement filed by respondent Nos. 1 to 3, it comes out that Sat Naryan petitioner did not complete 240 days in each year and there was a break of more than 30 days. Similarly, Sudama petitioner No. 2 also did not complete 240 days in a year and petitioner Dalbir also did not complete 240 days in each year for the last three years.

9. Counsel for the petitioners has stated that from the policy, (Annexure P-2), it is clear that the workman should have worked with the respondents on 31.1.1996 and should have completed 240 days in each calendar year without break in service and break in service should not be more than one month at a time in any year. The petitioners have completed 240 days without any break in the previous three years if counted from the cut off date i.e. from 31.1.1996.

10. I have heard counsel for the petitioners and the counsel for the respondents and perused the record and the awards.

11. The respondent-State has not filed writ petition, challenging award, which are in favour of petitioners. In fact, in the written statement, it has been stated that the awards of Labour Court, Annexures P/1, P/1-A and P/1-B have already been implemented.

12. Award dated 29.1.1998, Annexure P-1 clearly stipulates, that the petitioners/workmen are entitled to be reinstated on their previous posts with continuity of service. Since the respondents have not come forward to challenge this part of the award, i.e. continuity of service, it is deemed that they were in continuous service rights from the day they were retrenched.

13. Counsel for the petitioners has drawn my attention to a Division Bench judgment of this Court in Avtar Singh v. Punjab State Co-operative Supply and

Marketing Federation Limited, Chandigarh, 2001(3) S C T 307 wherein this Court has held that the petitioners shall be deemed to be in service and actually served the respondents during termination period and are entitled to be considered for regularisation under the policy. The case reported in Avtar Singh (supra) covers the case of petitioners.

14. The respondents are directed to consider regularisation of petitioners according to the principles laid down in the judgment reported in Avtar Singh (supra) and Sohan Lal v. State of Haryana and Ors., Civil Writ Petition No. 15071 of 1995, decided on 4.12.1996.

15. With the above directions and observations, these writ petitions are dismissed.