

(2011) 04 SHI CK 0381
In the High Court Of Himachal Pradesh
Case No : CWP No. 2600 of 2011

Vayasa Devi and Others

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 28-04-2011

Acts Referred:

Citation : (2011) 04 SHI CK 0381

Hon'ble Judges : Kurian Joseph, C.J;V.K. Ahuja, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The Petitioners in these cases are aggrieved since they are not given regularization on completion of 10 years of service. According to the Petitioners, some of their juniors have been regularized. The learned Deputy Advocate General points out that people, who have been regularized, had necessarily completed the required number of years of continuous service. According to the Petitioners, by virtue of the award passed by the Labour Court, their continuity in service has been declared and protected. The interference of this Court is only with regard to back wages. If the findings with regard to continuity in service, as awarded by the Labour Court, have become final necessarily for all purposes, except back wages, the same have to be treated as continuous. If that be so, in case any junior to the Petitioners, who had not been retrenched and in case, such a person has been granted regularization, the Petitioners are also entitled for regularization with effect from the date of regularization of the juniors. As rightly pointed out by the learned Deputy Advocate General, if the regularization granted to the juniors is wrongly done, it will be certainly open to the Department to take appropriate corrective steps with notice to such affected party.

2. All these factual aspects are to be verified by 2nd/3rd Respondent, as the case may be. As far as this Court is concerned, what is required is only a declaration of the legal position regarding continuity of service. In case the award passed by the Labour Court regarding continuity in service has become final, except for the

purpose of back wages, the same should be treated as continuous for all purposes including regularization.

3. In the above circumstances, these writ petitions are disposed of as follows:

The 2nd/3rd Respondent, being the competent authority, shall examine the case of each Petitioner after verification of facts in light of what is held, as above, and take appropriate action in accordance with law within four months from the date of production of a copy of this judgment along with a copy of award passed by the Labour Court and a copy of the writ petition by the Petitioner concerned.