



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-6253-2021 (O&M)

Date of decision: 19.08.2025

Shyam Singh

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. R.K. Arora, Advocate and
Mr. Jugam Arora, Advocate for the petitioner(s).

Mr. Rahul Dev, Addl. AG Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. The present writ petition challenges the orders dated 13.08.2020 and 18.08.2020, whereby the claim of the petitioner for payment of arrears of salary, consequent upon his regularisation vide order dated 21.04.2017, has been arbitrarily restricted to a period of 38 months preceding the order of regularisation.

2. Learned counsel for the petitioner has submitted that the petitioner initially joined the respondent-Department on 01.08.1989 as a Beldar on daily wage basis and was subsequently posted against the post of Driver w.e.f. 01.01.1990. He discharged his duties with diligence and continued to work against the said post till 03.09.2001 when his services came to be terminated by the respondent-Department. Aggrieved thereof, the petitioner raised an industrial dispute which was referred to the Labour Court-cum-Industrial Tribunal, Ambala, vide Notification dated 28.11.2004.



The Labour Court, vide award dated 14.09.2005, set aside the order of termination on the ground of the same being in violation of Section 25-F of the Industrial Disputes Act, 1947, and directed reinstatement of the petitioner with continuity of service and with full back wages.

3. The said award was assailed by the respondent-Department in CWP-18780-2005 before this Court. While upholding the direction of reinstatement with continuity of service, this Court, however, modified the award to the limited extent of denying back wages, and thus partly allowed the writ petition vide order dated 09.12.2005. Consequent thereto, the petitioner re-joined service as Beldar on 23.01.2006 and has been continuously serving since then.

4. It is further submitted that the State of Haryana had in the meanwhile issued policy instructions dated 01.10.2003 providing for regularisation of daily wage/adhoc/contract and other categories of employees who had completed three years of service. Numerous employees similarly situated, including those junior to the petitioner, were regularised under the said policy. The petitioner's claim, however, was not considered on an untenable ground that he was not in service as on the date of issuance of the policy, despite the fact that his reinstatement with continuity of service had already been upheld by a Division Bench of this Court. It is also submitted that the petitioner's juniors, namely, Sh. Suraj Bhan son of Sh. Pyare Lal and Sh. Ajmer Singh son of Sh. Kehar Singh, along with others, were granted regularisation, while the petitioner was discriminated against.

5. A representation dated 17.03.2009 was hence submitted by the



petitioner. No decision ensued, and meanwhile, fresh instructions dated 29.07.2011 were issued to regularise similarly placed employees. Even then, the petitioner's case was again ignored. Despite repeated representations, the respondents failed to act, compelling the petitioner to approach this Court by way of CWP-10973-2015 for seeking regularisation from the date his juniors were regularised. This Court, vide order dated 18.01.2017, allowed the writ petition and directed the respondents to consider the petitioner's case for regularisation from the date of regularisation of his juniors, namely, Sh. Suraj Bhan and Sh. Ajmer Singh and granting two months' time for compliance.

6. It is contended by the petitioner that another employee, namely, Shri Jagdeep Kumar, who was junior to the petitioner and was employed in the same Department, had also approached this Court by filing CWP-10977-2015 for seeking regularisation. The said Jagdeep Kumar had initially joined the respondent Department as a Beldar on 1 July 1995, and his services were terminated on 29 December 1999. By virtue of the Labour Court award dated 24 November 2003, his termination was set aside and he was also directed to be reinstated with continuity of service and full back wages. The respondents challenged the above award in CWP-11713-2005, albeit limited to the aspect of back wages. The said writ petition was dismissed as withdrawn by this Court on 31 January 2017. Shri Jagdeep Kumar was thereafter reinstated on 19 August 2005 and he subsequently claimed regularisation of his services based on the regularisation accorded to similarly situated employees, namely, Shri Suraj Bhan and Shri Ajmer Singh



(as referred to by the petitioner). His claim stood allowed vide order dated 1 February 2018 with a direction to the respondents to issue a fresh order and grant all consequential benefits within three months. It is undisputedly on record that the respondents extended all such benefits to Shri Jagdeep Kumar, paying the complete arrears from the date of regularisation being 1st October 2003. In stark contrast, in the case of the petitioner, despite directing regularisation from the date when his juniors i.e. Shri Suraj Bhan and Shri Ajmer Singh were regularised, vide order dated 21 April 2017 w.e.f. 01.10.2003, the benefits and arrears were confined to a period of 38 months prior to the date of the passing of the said order.

7. The petitioner thus submitted a representation seeking the grant of arrears from the date benefits had been extended to the other similarly situated employees. The Executive Engineer, Provincial Division, Department of PWD (B&R), Naraingarh, respondent no. 4, sought clarification from the superior authorities through communication dated 16 October 2019 regarding whether the petitioner was to be allowed arrears of the regular scale commencing from 1st October 2003 or to arrears limited to 38 months preceding regularisation. The said officer specifically pointed out that restricting such arrears to 38 months would be incorrect since identical benefits had already been provided to Shri Jagdeep Kumar yet, the arrears due to the petitioner have not been released.

8. The petitioner, claiming parity and seeking entitlement to the same benefits, has filed the present writ petition.

9. Learned counsel appearing for the State submits that, unlike the



case of Shri Jagdeep Kumar, who was reinstated with full back wages following the withdrawal of the writ petition challenging such benefit, the petitioner herein was denied the benefit of back wages. Consequently, the restriction imposed upon the grant of benefits, limiting them to a period of 38 months preceding the date of the order dated 21 April 2017, was duly applied in the petitioner's case. It is further asserted that the respondent Department had issued a circular bearing U.O. No. 6/20/2018-1GS1 dated 21 December 2018, wherein the payment of arrears in respect of the regular pay scale was specifically restricted to 38 months prior to the date of the employee's actual regularisation. Learned State counsel contends that the said circular has not been specifically challenged or made the subject matter of the present writ petition and, therefore, the denial of relief sought by the petitioner stands justified and in accordance with departmental policy.

10. I have heard the learned counsel for the respective parties and have gone through the documents appended with the present writ petition, with their able assistance.

11. The respondents have advanced two principal reasons for restricting the grant of benefits to a period of 38 months prior to the date of the regularisation order dated 21 April 2017. Firstly, it is contended that the benefit of back wages was specifically denied to the petitioner pursuant to the order dated 14 September 2005 passed by a Division Bench of this Court in CWP-18780-2005. Secondly, reliance is placed upon the departmental circular dated 21 December 2018, which prescribes that the benefit of arrears of regular pay scale shall be confined to 38 months preceding the



effective date of regularisation of the employee.

12. I find that the reasons advanced by the respondents in support of their contentions are fundamentally misconceived and not legally sustainable. Firstly, regarding the reliance on the circular dated 21 December 2018, it is manifest that the petitioner's order of regularisation was passed on 21 April 2017 i.e. prior to the issuance of the said circular; therefore, the post-dated circular cannot be applied retrospectively to deny the petitioner his legitimate benefits. Secondly, it is undisputed that Shri Jagdeep Kumar, who was junior and similarly situated to the petitioner, has been granted arrears and benefits with effect from the date of his regularisation i.e. 01.10.2003, hence, there exists no reason or justification to deny the petitioner parity in this regard. Still further, an official of the respondent department, through official communication to the superior authorities, has acknowledged and affirmed the petitioner's entitlement to such benefits, noting that these benefits have already been provided to juniors of the petitioner.

13. As regards the respondents' contention that the petitioner was denied back wages vide order dated 9 December 2005, it is apparent that such denial pertains solely to the period prior to that date. For the period thereafter, up to the date of regularisation on 21 April 2017, there is no lawful basis for not giving the due and confining the benefits to a period of 38 months. The denial was limited to back wages and did not extend to consequential benefits. Resultantly, while the petitioner may not be entitled to actual wages for the period between his termination and the order dated 9



December 2005, he cannot be deprived of arrears after the above date and the consequential benefits accruing post that date and prior to his regularisation.

14. In view of the above, the writ petition is **allowed**. The impugned orders dated 13.08.2020 and 18.08.2020 are **set aside**. The petitioner is held entitled to the actual back wages w.e.f. 09.12.2005 i.e. the date of the order passed by the Division Bench in CWP-18780-2005 upholding the Labour Court award of re-instatement with continuity in service.

15. Let the needful be done by the respondents within a period of 03 months of receipt of a certified copy of this order, failing which, the petitioner shall be entitled to the said benefits alongwith interest @6% per annum from the date of filing of the instant writ petition till its final disbursement.

16. **Allowed in above terms.**

(VINOD S. BHARDWAJ)
JUDGE

19.08.2025

Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No