

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

COCP No.2644 of 2016

Date of decision : 27.09.2017

Suresh Kumar

.....Petitioner

Versus

B. S. Dahiya

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Jaspal Singh Maanipur, Advocate for the petitioner.

Mr. Rajesh K. Sheoran, Addl. A. G., Haryana.

* * *

DAYA CHAUDHARY, J. (Oral)

The petitioner has approached this Court by way of filing present contempt petition for non-compliance of direction issued by this Court in CWP No.18874 of 2012 decided on 15.12.2015 by Hon'ble Division Bench, whereby a direction was issued to consider the case of the petitioner for regularization in accordance with the policy/instructions issued by the State.

The claim of the petitioner was not considered on the ground that Council of Ministers has reviewed its earlier policy/instructions for regularization of Group B, C & D employees appointed on *ad hoc*/contractual basis. It is also mentioned that these policies have been put on hold by the State Government vide order dated 03.06.2016. It was

mentioned that case of petitioner would be considered for regularization on reviewing its decision by the Council of Ministers. The matter is still pending and no action has been taken so far.

Learned counsel for the petitioner submits that other similarly situated persons have been regularised but the case of the petitioner has not been considered.

Learned State counsel submits that the matter with regard to regularization of the petitioners who filed CWP No.17206 of 2014 is still pending for 27.10.2017 before Hon'ble Division Bench and the policy applicable to the case of the petitioner has been stayed.

On the last date of hearing, the case file of said petition was called. On perusal of order dated 02.09.2016 passed in CWP No.17206 of 2014 and other connected matters, it was found that nowhere it was mentioned as to which policy had been stayed and which policy is applicable to the petitioner.

Undisputedly, the directions were issued to the respondent-authorities to consider the claim of the petitioner for regularization in accordance with the policy/instructions issued by the State, preferably within a period of six months from the date of passing of order *i.e.* 15.12.2015. During this period, many orders have been passed but still the services of the petitioners have not been regularised. It appears that neither the respondent-authorities are sure as to which policy of regularization is applicable to the case of the petitioner nor learned counsel for the petitioner as to under which policy the petitioner is entitled to be regularised. Even the

order does not indicate as to which policy is applicable. Meaning thereby, it was left to the respondents to consider the case of the petitioner in view of relevant policy/instructions.

The petitioner is contesting his case since long but still nothing has been done. Even this contempt petition is pending since October 2016. On perusal of impugned order, it shows that no case of contempt is made out as claim of the petitioner has been rejected by passing a speaking order. A contradictory stand has been taken by the respondent-State in the speaking order that the petitioner is not entitled for regularization as the policy applicable to the case of petitioner has been stayed. The argument does not appear to be convincing to the Court.

However, keeping in view the interest of justice, a direction is issued to the respondent to reconsider the case of the petitioner afresh in accordance with the policy of regularization applicable to the case of petitioner within a period of three months. In case the petitioner is found to be entitled for regularization, the necessary relief be granted to him and in case, for any reason, the respondent- authority comes to the conclusion that petitioner is not entitled for regularization, then a detailed speaking order be passed.

It is also mentioned that in case presence of the petitioner is required, he be given opportunity of hearing.

Petitioner is also at liberty to move a detailed representation within a period of 10 days stating as to which policy is applicable to his case and who are the similarly situated persons, who have been regularised.

Disposed of accordingly with the said direction.

27.09.2017

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No