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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

204 CWP-19963-2022 (O&M)
Date of decision: 23.08.2024

Sanjay Kumar Mahajan … Petitioner

Vs.

State of Punjab and another … Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Randhir Singh Manhas, Advocate for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

Mr. Ajay Pal Singh, Advocate for respondent No.2.

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AMAN CHAUDHARY, J. (ORAL)

1. The present petition has been filed for directing the respondents to regularize the services of the petitioner under the Policies dated 18.03.2011 and 17.11.2011.

2. Learned counsel for the petitioner would submit that the petitioner was appointed as Executive Engineer, however, on contractual basis against the sanctioned posts on 07.09.2012 and his services have not been regularized despite his case is being covered under the Policies dated 18.03.2011 and 17.11.2011 (Annexures P9 and P10), as also the judgments of this Court in **State of Punjab and others vs. Surjit Kaur,** LPA-771-2015, decided on 29.04.2016, against which SLP stands dismissed vide judgment dated 09.12.2016; **Ram Pal vs. State of Punjab and others**, CWP-18202-2019, pronounced on 04.12.2023 and **Amrish Sharma and others vs. State of Punjab and others**, CWP-19238-2013, decided on 26.02.2024.

3. Referring to the case of **Surjit Kaur** (supra), wherein the petitioner, working on part-time basis as a sweeper, was granted similar benefit as claimed in the present petition, the relevant paras thereof read thus:

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> "Having held that, it may be further seen that the policy decision dated 4th March, 1999 is undeniably a welfare scheme launched by the State of Punjab in deference to its Constitutional obligations. The policy has been issued to achieve a laudable object to confer the status of regular employees on those Class IV part-employees who are in service for 10 years or more. It may be true that the policy contemplates adjustment of part-time Class IV employees against 25% vacancies which were to become available after the policy has come into force. However, if the authorities find that due to nonavailability of requisite vacancies, they were unable to achieve the object and purpose of the policy, even in those case where part-time employee has reached the age of superannuation, it was imperative upon them to re-visit and re-modulate the same so that it does not turn out to be a false promise or a mirage.
>
> Should such a policy remain on papers or its object must percolate to net-end beneficiaries, at least to those who, after long span of 30 years of service, have attained the age of retirement, is a question which the authorities themselves ought to have addressed instead of awaiting for the court directions.
>
> We are sure that the State of Punjab will look into this aspect of the matter and re-structure the policy in such a manner that services of Class IV part-time employees are regularized at least before one attains the age of retirement and in case, regular vacancy does not become available, in that case, such employee shall be taken to have been made regular immediate before his retirement. Such a liberal and pragmatic interpretation is the only effective modicum to achieve its object. Suffice to observe that recourse to such a policy decision is permissible under the mandate of Constitution Bench decision in **Secretary, State Of Karnataka And others vs Umadevi And Others**, 2006(4) SCC 1.
>
> In the light of the above discussion, the respondent is held entitled to the benefits of liberal construction of the policy as have been granted by the learned Single Judge.
>
> For the reasons afore-stated, we do not find any merit in this appeal. Accordingly, the same is dismissed."

4. In **Ram Pal** (supra), the petitioner, appointed as sweeper on daily wage basis, was held to be considered for regularization as well as other benefits, relevant paras whereof read thus:

> "4. Learned counsel submits that on 23.01.2001, the State Government had issued a policy for regularization of services

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> of those work charged/daily wages and other categories employees who had completed three years of continuous service on the date of issuance of the said policy. The petitioner who had been appointed on 1999-2000-2001, therefore, ought to have been considered for regularization under the said policy. Learned counsel further submits that regularization policy was again invoked by the State Government in the year 2011 but the petitioner's case for regularization was not considered, he, therefore, filed a civil suit seeking attention to the fact that his services are liable to be regularized. The learned trial Court vide its judgment and decree dated 25.03.2015, held that the petitioner would apply to the department for regularization of his services and the State will pass orders accordingly.
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> xx xx xx
>
> 6. This Court expresses its anguish to the mode and manner in which the respondents have dealt with the case of the petitioner for regularization. Admittedly, the appointment order passed initially does not reflect that the petitioner was appointed as part time employee and it merely says that the petitioner was appointed on daily wage basis. Thus, the petitioner was entitled for regularization. Even if it is noticed that as on 23.01.2001, he may have only completed 2 years, 10 months and 20 days of service and as on 2017, he had already put in almost 19 years of service. He, therefore, was entitled to be regularized in terms of the subsequent policy of regularization issued by the State Government. This Court in **Sukhdev Kaur vs. State of Punjab and others, CWP-12199-2000, decided on 23.09.2002** and in **Kanta Rani vs. State of Punjab and others, CWP-1933-2014, decided on 28.10.2014** also held the action of the respondents in not regularizing the services of the petitioner therein to be illegal and unjustified."

5. This Court in the case of **Amrish Singh** (supra), which pertained to employees seeking regularization into regular posts after acquiring over 10 years of service by the year 2006, observed that regularization policy is applicable to daily wagers who have served for a substantial period, relevant portion whereof reads thus:

> "35. In the case in hand, the respondent in 2006 framed regularization policy which was followed by 2011 Policy. As per Policy of 2006 read with policy of 2011, an employee who has completed service of 10 years by the end of December' 2006 is eligible for regular appointment. All the petitioners are Class 'D' employees. Few petitioners, as confirmed in different affidavits, during the pendency of litigation have been

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regularized and remaining have not been regularized due to lack of permanent/sanctioned pasts. The respondent in 2023 has framed another policy whereby dying cadre has been created. There was no minimum qualification at the time of their appointment. They without interruption are working for decades. They are assigned duties of Class IV. Courts repeatedly have held that long experience is as good as minimum qualification especially when an employee is effectively discharging his duties. Thus, it would not be justified, on the ground of minimum qualification, to deny benefit of regularization to an employee who is working for decades and is assigned duties of class IV i.e. lowest rung.

xx xx xx

Conclusion:

47. In the wake of above discussion and findings, this Court comes to conclusion as below:

i) This Court in the normal course cannot ask State to create or sanction posts.

ii) The petitioners who had completed service of 10 years by the end of December' 2006, either at present are in service or have already retired, are entitled to regular post and they cannot be denied regularization on the ground of lack of sanctioned post or minimum education qualification. To avoid burden on State exchequer, it is clarified that from the deemed date of their regularization, they shall be entitled to minimum of pay scale plus dearness allowance and grade pay till the date of this order and thereafter regular pay scale.

iii) The petitioners who are still in service but did not complete service of 10 years by the end of December' 2006 would form part of dying cadre created by 2023 Policy. The State, in view of long service of these employees, would not insist for minimum qualification. They from the date of completing service of 10 years would be entitled to minimum of pay scale plus dearness allowance plus grade pay till the date they are regularized in terms of 2023 Policy.

iv) The petitioners who did not complete service of 10 years by the end of December' 2006 and during the pendency of present litigation have superannuated or passed away would be entitled to minimum of pay scale plus dearness allowance and grade pay from the date of completing service of 10 years till the date of their retirement or death.

v) The petitioners who have already been regularized by 31.12.2016 shall not be entitled to any additional financial

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benefit because they are already getting higher amount of salary for last couple of years.

vi) The respondent-State shall not be liable to pay interest on arrears arising on account of re-fixation of pay."

6. Learned State counsel as well as learned counsel for respondent No.2 despite their best efforts was unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.

7. In view of the aforesaid, the present petition is disposed of, in terms of the Policies dated 18.03.2011 & 17.11.2011 and the judgments passed in **Surjit Kaur, Ram Pal** and **Amrish Sharma** (supra).

(AMAN CHAUDHARY)
JUDGE

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

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