

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.25841 of 2012
Date of Decision: July 02, 2015

Satbir

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.R.K.Malik, Senior Advocate with
Mr.Mandeep Singh, Advocate,
for the petitioner.

Mr.Hitesh Pandit, Addl.A.G.Haryana,
for the State.

AMIT RAWAL, J. (Oral)

The petitioner has approached this Court for issuance of a writ of certiorari for quashing of the order dated 20.9.2012 (Annexure P-6), whereby the claim of the petitioner for regularisation has been rejected and also for issuance of a writ in the nature of mandamus for directing the respondents to consider his claim for regularisation from the date his juniors have been regularised.

Mr.R.K.Malik, learned Senior Counsel assisted by Mr.Mandeep Singh, appearing on behalf of the petitioner submits that the petitioner was appointed as a Sweeper through Employment Exchange on part time basis

on 14.5.1985. It has been stated that the Government of Haryana, vide notification dated 29.7.2011 (Annexure P-2), taken a conscious decision that all the Group C and D employees working on part time basis but rendered ten years of service on 10.4.2006 were/are entitled to regularisation. The petitioner approached this Court for seeking regularisation by filing Civil Writ Petition No. 6853 of 2012, which was disposed of vide order dated 13.7.2012 and the respondents vide impugned order dated 20.9.2012 rejected the claim of the petitioner on the premise that there was no sanctioned vacant post at the time of his engagement and the petitioner is not entitled to regularisation as per the policy decision dated 29.7.2011.

Learned Senior counsel for the petitioner has challenged the aforementioned order by referring to an order dated 30.11.2012, whereby the office of the District Education Officer, Panipat, keeping in view the policy dated 30.12.1998/25.2.1999, regularised the services of various employees indicated in the list against sanctioned posts, but from the perusal of the list, it is evident that all the aforementioned employees have been appointed much later to the petitioner. The services of the petitioner were regularised vide order dated 14.5.2013 and it has been shown that the petitioner was appointed on 14.5.1985 against the sanctioned post as Sweeper-cum-Chowkidar. It has been contended that there is a clear cut discrimination at the hands of the respondents in not regularising the services of the petitioner w.e.f. 1.4.2011 as the persons junior to the petitioner, i.e., appointed much later to him, have been regularised. The petitioner is not claiming regularisation w.e.f. 10.4.2006 as there was no

sanctioned post.

Mr.Hitesh Pandit, learned Additional Advocate General, Haryana appearing on behalf of the State submits that the order dated 20.9.2012 (Annexure P-6/R-1) is in conformity with the policy dated 29.7.2011 (Annexure P-2) and there is no illegality and perversity inasmuch as that when the petitioner was appointed in the year 1985, there was no sanctioned post. The moment sanctioned post occurred, petitioner's services have been regularised w.e.f. 1.3.2013.

I have heard the learned counsel for the parties and appraised the paper book.

On perusal of order dated 30.11.2012 (Annexure P-9), it is evident that all the employees, whose services have been regularised on sanctioned post, have been appointed later to the petitioner, i.e. in the year 1991 to 2002, whereas, concededly the petitioner was appointed on 14.5.1985. The petitioner is not claiming the regularisation with effect from the date when he had completed ten years of service, but from the date when the sanctioned post occurred. The moment order (Annexure P-9) was passed, it revealed that sanctioned post was available, but for the reasons best known to the respondents, they did not consider the case of the petitioner for regularisation and regularised the services of the persons, who were junior to the petitioner. The respondents cannot cause discrimination amongst the same class of persons, who have been discharging the same kind of duties.

The order (Annexure P-9), whereby the services of the petitioner have been regularised w.e.f. 1.3.2013 also indicates that it was

against the sanctioned post. Since the sanctioned post was available in 2011, therefore, the claim of the petitioner seeking regularisation w.e.f. 1.4.2011 is legal and justified and rightly so the petitioner has a grievance against the respondents.

In view of what has been observed above, the impugned order dated 20.9.2012 (Annexure P-9) is hereby quashed and the respondents are directed to regularise the services of the petitioner w.e.f. 1.4.2011, the date when the services of the persons, who were junior to the petitioner, have been regularised. The petitioner shall be entitled to all the consequential benefits.

The writ petition is accordingly disposed of.

July 02, 2015
ramesh

(AMIT RAWAL)
JUDGE