

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.24774 of 2015

Date of Decision: 28.11.2015

Baljit Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Sonia G.Singh, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. The petitioner has approached this Court claiming regularization of service as a Sweeper rendered in a Government school since 1988 on part-time basis. Her name figures at Sr. No.48 of the gradation/priority list maintained in the office of the District Education Officer (Schools), Ludhiana. She claims that a person appointed after her through direct recruitment just as she was has been regularized w.e.f. November 25, 2012 namely Bimla w/o Bachan Singh. Both of them have been working as Safai Karamcharis. Bimla is illiterate. The petitioner is 3rd pass. Pleads unfair discrimination. Claims parity of treatment to remove unfair discrimination so that the equilibrium of Article 14 of the Constitution of India is restored in a just balance. However, the case of Bimla is not known in any detail as to how she has been afforded regularization but that is a matter for examination by the Administrator and

the decision-maker amongst the respondents to review the case of the petitioner on the similarity of the two cases. The petitioner has served a legal notice dated August 18, 2015 (P-6) to the Government praying that her case be considered for regularization either under the policy dated December 15, 2006 or any other earlier policy of the Punjab Government prior to the decision of the Constitution Bench in *Secretary, State of Karnataka and others vs. Uma Devi (3) and others*, (2006) 4 SCC 1 with reference to paragraph 53 of the judgment which permitted State Governments to formulate policies of regularization as a one-time measure and grant regularization of services to those who have rendered more than 10 years of service prior to the pronouncement of the judgment on April 10, 2006.

2. Learned counsel for the petitioner contends that part-time workers like the petitioner and Bimla fall under the policy instructions and it is not only full-time employment which can earn the benefit of permanency in the scheme of regularization. The legal notice has remained without a decision so far.

3. Since the legal notice dated August 18, 2015 (P-6) demanding justice from the department of the Government remains without attention it is prayed that in the circumstances, a direction may be issued to the respondents directing them to consider and decide the aforesaid legal notice within a reasonable time so that the rights of the petitioner are declared without delay as she is suffering recurring loss of pay and allowances as are admissible and available to those of the likes of Bimla working in the same position in schools run by the Punjab Education Department in the category

of Group IV, Sweepers/Safai Karamcharis.

4. The request is fair and reasonable and this Court accepts the same and issues a direction to respondent No.3 to decide the aforesaid legal notice within two months of the date of receipt of the certified copy of this order supplied by the petitioner. Needless to say, that in case the request of the petitioner is found genuine either independently or on the touchstone of the case of Bimla on parity then her services can be regularized in terms of the policy under which Bimla was regularized with effect from the same date as Bimla was and for this end no hearing would be required nor would there be a necessity of passing a speaking order. However, if an order adverse to the interest of the petitioner is contemplated then she would be effectively heard personally or with a colleague well versed with representing a case and a reasoned order would be passed in accordance with law disclosing material and grounds of denial and the same after passing shall be communicated to the petitioner within one three days thereafter. In the event of an adverse order passed the petitioner would be at liberty to challenge the order in a court of law, if it is against her interest and deprives her of her right against unfair discrimination and to enforce parity of treatment in case there is no reasonable classification between her case and the case of Bimla or any other person similarly situated like Bimla.

5. With the above observations and directions, the petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

28.11.2015
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