

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

LPA-113-2015 (O&M)

Date of Decision: March 3, 2015

State of Punjab and others

...Appellants

Versus

Jagpal Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Aman Bahri, Additional Advocate General, Punjab,
for the appellants.

Mr. Pawan Kumar Goklaney, Advocate,
for the respondent.

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?

SURYA KANT, J. (Oral)

CM-209-LPA-2015:

Prayer in this application is for condonation of delay of 99 days in filing the Letters Patent Appeal, which is stated to have occurred on account of administrative exigencies and procedural pre-requisites.

Learned counsel for the respondent fairly submits that he has no objection against condoning of delay.

In view of above, this application is allowed and the delay in filing the Letters Patent Appeal is hereby condoned.

LPA-113-2015:

This Letters Patent Appeal impugns the order dated 8.9.2014, whereby learned Single Judge has allowed the respondent's writ petition directing the appellant State to consider regularization of his services on the post of Pump Operator with consequential benefits.

The facts are broadly admitted. The respondent possesses the academic and technical qualification of Matriculation plus ITI Diploma in the trade of Carpenter. He was engaged as a Pump Operator (now re-designated as 'Junior Technician') on daily wages with effect from 1.6.1989. The respondent has been working as such to the entire satisfaction of the appellant authorities. He was retained in service without any stay order by a Court or Tribunal.

The qualification prescribed for the post of Pump Operator is Matric with one or two year ITI Certificate Course in Electrician/Motor Mechanic/Diesel Mechanic/Tractor Mechanic etc.

Notwithstanding the above mentioned qualification prescribed for the post of Pump Operator, there are several instances where persons not possessing such or any technical

qualification have been appointed by relaxing the qualifications.

However, after the decision of Hon'ble Supreme Court in **Secretary, State of Karnataka v. Uma Devi, (2006) 4 SCC 1,,** the appellant - State of Punjab issued a policy instruction dated 15.12.2006 for regularization of services of daily wage/work charged employees wherein it was prescribed that the services of only those employees shall be regularized who fulfill all the conditions mandated in the Apex Court judgment.

The respondent's claim was not considered under the aforesaid policy and the same was turned down for want of specific technical qualification.

Thereafter, the State of Punjab issued another policy dated 18.3.2011 (Annexure P-1) wherein it decided to regularize services of daily wage/work charged employees “.....*who completed 10 years of service upto 12/2006.....*”

The claim of the respondent though was considered under the aforesaid policy, but it was turned down on the ground that he did not possess the requisite qualification for regularization to the post of Pump Operator, i.e. Matric with one or two year ITI Certificate Course in Electrician/Motor Mechanic/Diesel Mechanic/Tractor Mechanic etc.

The learned Single Judge has vide the impugned order allowed the claim of respondent observing that he is

performing duties of Pump Operator to the entire satisfaction of the authorities for more than three decades.

It is strenuously urged by learned Additional Advocate General, Punjab, that since the policy circular expressly stipulates that the employee must possess the requisite qualification, the respondent's service cannot be regularized de-horse the conditions prescribed in the policy circular. He reiterates that the respondent does not possess the requisite qualification, therefore, the appellant authorities rightly decided not to regularize his services.

Having bestowed our thoughtful consideration to the submissions made by learned counsel for the State, we are satisfied that no interference in the order under appeal is called for. We say so for the reason that the respondent is admittedly working as a Pump Operator since the year 1989. Learned Single Judge has rightly observed that his work and conduct and performance of duties has always been up to the entire satisfaction of the authorities. Rich experience gained by the respondent while working as Pump Operator is in-valuable and stands on equal footing if compared with an employee possessing the certificate from ITI.

The claim of respondent has to be considered also from the angle that there are so many instances when daily

wage/work charged employees who even do not possess the qualification of Matriculation, have been brought on regular establishment keeping in view the skill and expertise possessed by them. The same analogy would apply in the case of the respondent as well.

It is not a case that the respondent does not possess any qualification at all. He is matriculate and possesses ITI Diploma, but in a different trade, i.e. ITI Diploma in the trade of Carpenter. That technical qualification has proved its worth, for the respondent has always performed his duties to the satisfaction of the authorities.

The other reason which dissuades us from interfering with the order passed by learned Single Judge is the date of birth of the respondent which is 15.8.1963. He is already more than 51 years old. Hardly 7/8 years are left in his retirement. At this juncture, there is no possibility of getting a new employment. He has already spent better-half of his life in the service of the appellants. He deserves the status and security as a regular employee before he demits the office on reaching the age of superannuation.

For the reasons aforesaid, this appeal fails.

However, it is clarified that neither the above mentioned observations shall be construed as a relaxation of the

Government policy dated 18.3.2011 (Annexure P-1) nor the requirement of compliance of that policy has been dispensed with. It is only in the peculiar facts and circumstances of the case in hand that one of the condition has been liberally construed.

(SURYA KANT)
JUDGE

(NARESH KUMAR SANGHI)
JUDGE

March 3, 2015
Pkapoor