

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

LPA No. 1610 of 2015 (O&M)

DATE OF DECISION : 05.11.2015

The State of Haryana and others

.... APPELLANTS

Versus

Surekha Rani

.... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Lokesh Sinhal, Addl. A.G., Haryana,
for the appellants.

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SATISH KUMAR MITTAL, J. (Oral)

The State of Haryana and others have filed this intra-court appeal under Clause X of the Letters Patent against the order dated 06.09.2013 passed by the learned Single Judge, whereby the writ petition (CWP No. 10629 of 2010) filed by Surekha Rani (respondent herein) was allowed and the appellants were directed to consider regularizing the respondent under the regularization policy floated on 01.10.2003 by the Haryana Government by assuming that she was in service and present on the relevant day, i.e. 30.09.2003, by deeming fiction with all consequential benefits.

There is long delay of 737 days in filing this appeal. The appellants have filed application (CM No. 3453-LPA of 2015) for

condonation of delay in filing the appeal. We have gone through the contents of the application. No sufficient reason, at all, has been given for condoning the said delay. Even otherwise, we are of the opinion that the appellants have no case on merits and in a petty matter, the State has decided to file appeal against the litigation policy.

In this case, undisputedly, the respondent was appointed as an *ad hoc* teacher in the year 1994. She is still continuing in service. Her claim for regularization under the Policy of 2003 was denied only on the ground that on the relevant day, i.e. on 30.09.2003, she was not present, whereas services of the other *ad hoc* employees who were working have been regularized. In this regard, it is the case of the respondent that she was on leave from 01.07.2003 to 17.05.2004 due to her illness and during the said period she was taking treatment of cancer.

The learned Single Judge has found action of the appellants as discriminatory and illegal. While referring to Rule 8.121 of the Punjab Civil Service Rules, Volume – I, Part 1, as applicable to Haryana, it has been observed that in view of the Notification dated 10.05.2004 (Annexure P-4) of the Haryana Government, leave period of the respondent has to be spread in two years, and in each year she was entitled to have a leave for 6 months. It has been further observed that the respondent would be deemed to have been on leave for 5 months in the year 2003 and 5 months in the year 2004, which is less than 6 months, and this period of leave should not deprive the

respondent of her right to be treated on parity with similarly situated employees whose services have been regularized on the ground that that they were in service on the relevant day, i.e. 30.09.2003. Nothing contrary was shown before the learned Single Judge, as also before us. Therefore, even on merits, there is no substance in this appeal.

In view of the above, this appeal is dismissed being barred by limitation as well as on merits.

(SATISH KUMAR MITTAL)
JUDGE

November 05, 2015
ndj

(MAHAVIR S. CHAUHAN)
JUDGE