

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 15811 of 1998 (O&M)

Date of Decision: 2.9.2016

Smt.Mehmoodi

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr.P.L.Verma, Advocate for the petitioner

Ms.Shruti Jain Goel, AAG, Haryana

RAJIV NARAIN RAINA, J. (Oral)

1. The petitioner's husband was one among many persons appointed as Family Planning Field Workers [FPFW] in the Health Department, Haryana sometime in the year 1969 or thereabout. He along with other similarly-situated FPFWs had worked on *ad hoc* basis for a number of years and then claimed regularization of their services. They lodged a claim with the Department, but no decision was taken which brought them to file various writ petitions in this Court which included CWPs No. 955, 1100, 1114 and 1221 of 1973 in which the following order was passed on 16th March, 1982:-

“These writ petition Nos. 955 of 1973, 1100 of 1973, 1114 of 1973 and 1221 of 1973 are being disposed of by this judgment as the point involved in these is common.

The petitioners who are only ad hoc employees claim regularization of their services on various

grounds including the one of the basis of State Government Notification No. GSR.3/Const./Art./309/80 dated January 1, 1980.

Mr. Harbhagwan Singh, Advocate General, Haryana appearing for the respondent-authorities states that the respondent authorities are willing to consider the case of the petitioners in the light of the above noted notification and whosoever is covered by this notification shall be regularised. This satisfied the learned counsel for the petitioners. In view of this stand of the Advocate General, Haryana I dispose of these petitions with the direction that the respondent-authorities would consider the claim of the petitioners for regularisation in the light of the above said notification after hearing them.

Sd/- I.S.Tiwana
Judge”

2. In view of the concession given by the Advocate General, Haryana expressing the willingness of the Government to regularise the services of the petitioners therein in terms of the Notification dated 1st January, 1980 which laid down the policy of regularization of the State of Haryana, the case of the husband of the petitioner was taken up and considered along with the rest by the Government but was rejected by inadequacy of prescription in Clause (c) of the policy which required that the work and conduct of the ad hoc employee proposed to be regularised should be of an overall “good” category. It was this condition that the husband of the petitioner failed did not satisfy while others met the standard and were regularised in service and became regular hands.

3. In the original written statement filed by the Director Health Services (Malaria), Haryana dated 29th January, 1999, a table has been placed in paragraph 4 which reveals the overall assessment of the ACRs of the husband of the

petitioner from the years 1969-70 to 1979-80 did not qualify as overall good.

During this period, he earned four “Good” entries as against five “Average” entries and two “Below Average”. He was conveyed adverse remarks for the years 1973-74, 1974-75, 1975-76 and 1978-79. Not only this, his further record after 1979-80 had also been tabulated in succeeding paragraph 5 which also does not improve the position till he died in 1993. After 1980, his record is dismal and does not meet the standards of the stipulation contained in Clause (c) of the 1980 Notification.

4. I have heard Mr. Verma for them petitioner and the law officer for Haryana and have perused the record and the text of the Notification issued on January 1, 1980 and the service record of the petitioner as borne out in the reply to which there is no refutation and is thus accepted.

5. Ms. Shruti Jain Goyal, learned counsel for the State points out that after the death of the husband of the petitioner, the case for regularization of his services in terms of the 1980 Notification was again considered at the behest of the widow and not acceded to regarding regularisation, but the petitioner's case for grant of compassionate appointment to her son was sympathetically considered and he was appointed as a Class IV employee on *ex gratia* basis on 24th July, 1997.

6. It is only after the appointment was offered and accepted by her son, that the present writ petition was filed in the year 1998 claiming family pension. The right to family pension has been denied as it could only flow through a regular government servant dying in harness or as a pensioner, and therefore, it is not possible for this Court to accept the prayer for issuance of a writ of mandamus to the State to provide family pension to the widow even in the face of her son being employed in government service.

7. In view of the above unrebutted factual position, I do not find any life in this petition to breathe acceptance of the claim by a decree which request was

rightly declined by the authorities. Thus the petition is accordingly and hereby ordered to stand dismissed without an order as to costs which would be borne by either side.

2.9.2016
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No