

CWP-16180-2012

[1]

In the High Court of Punjab and Haryana at Chandigarh.

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Date of Decision:17.03.2016

Pardeep Kumar and others

...Petitioners

Versus

Bhakhra Beas Management Board and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Gurbachan Singh, Advocate,
for the petitioners.

Ms. Kaavya Jariyal, Advocate for
Mr. T.K. Joshi, Advocate,
for the respondents.

SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in nature of *mandamus* directing the respondents to regularize their services.

Learned counsel for the petitioners has submitted that this petition be disposed of in terms of the decision given by this Court in Civil Writ Petition No.24394 of 2011 (Annexure P-8) decided on 09.05.2012. Against the said decision Letters Patent Appeal No.689 of 2013 was filed and

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the same was dismissed by this Court vide order dated 12.04.2013 (Annexure P-10). Special Leave Petition filed against the decision of this Court, Annexure P-10, was dismissed by the Apex Court vide order dated 31.01.2014 (Annexure P-11).

Learned counsel for the respondents, on the other hand, has opposed the petition.

CWP No.24394 of 2011 was disposed of by this Court vide order dated 09.05.2012 (Annexure P-8). The said order reads as under:-

“The petitioners are working as part-time Sweepers/ Mali in Government schools of Education Department, Punjab from the last several years. They seek regularisation of their services. The grievance of the petitioners is that though this Court on earlier occasions also issued such like directions which have been upheld by the Hon’ble Supreme Court also but no effective steps have been taken to create/sanction regular posts and to regularise the petitioners’ services.

Learned counsel for the State submits that in terms of the policies, the daily wagers are to be regularised as per their seniority. Since turn of the petitioners is yet to come, they cannot seek regularisation as a matter of right or out of

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turn

Having heard learned counsel for the parties, I am of the considered view that regularisation policy of the State, if any, has to be in consonance with the view taken by the Hon'ble Supreme Court in State of Karnataka vs. Umadevi, 2006(3) SLR 1. Within the parameters of such a policy, ad hoc/ work charge employees deserve to be considered for regularisation subject to the availability of post(s) and as per the order of seniority. This does not mean that the State would keep the matter under carpet perpetually without any effective relief to the aggrieved employees, on the pretext that no sanctioned posts are available. In other words, it is equally imperative on the State Government to give effect to its own policy by creating adequate posts depending upon the factors like work-load, allocation of budget to the Education Department and the priority for amenities/ infrastructure to the educational institutions.

The Department would be well within its right to create/ sanction limited posts only as per the budgetary allocations. It may also be true that the creation or sanction of posts is Executive's domain with restricted justiciability but does it mean that no post shall be created or sanctioned even if the petitioners retire on attaining the age of

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superannuation without having been regularised ?

The matter, thus, essentially requires a fresh look by the State authorities who shall consider the same appropriately within six months and in case it is decided to create some posts, to regularise services of part-time employees strictly in order of their seniority and suitability. If there are already vacant posts, the respondents shall be required to fill up the same by regularising services of eligible and suitable part-time workers as per their seniority within a period of six months.

Disposed of”

In the present case also petitioners are working as part-time sweepers and are seeking regularization of their services. Hence, this petition is liable to be disposed of in terms of the decision given by this Court, Annexure P-8.

Accordingly, this petition is disposed of in terms of the decision given by this Court in CWP No.24394 of 2011 (Annexure P-8) decided on 09.05.2012.

March 17, 2016
kapil

(SABINA)
JUDGE