

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

CWP No.15049 of 2016 (O&M)

Date of decision : 29.07.2016

Raj

... Petitioner

Vs.

The Registrar of Cooperative Society, Haryana & others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Digvijay Nagpal, Advocate for the petitioner.

...

TEJINDER SINGH DHINDSA, J.

The petitioner has filed the instant petition being aggrieved of the action of the respondent/authorities declining her claim seeking benefit of regularization in service. Counsel appearing for the petitioner submits that the petitioner had joined respondent No.4/Bank as a Sweeper on part time basis in the year 1995.

It is contended that the petitioner has served continuously thereafter and inspite of her work and conduct being satisfactory her services have not been regularized. Reliance has been placed upon the Notification dated 29.07.2011 issued by the Haryana State at Annexure P-9 to contend that the petitioner is vested with a right to be regularized as she has served for a period in excess of 10 years as on 10.04.2006. Counsel submits that the petitioner had earlier approached this Court by filing CWP No.27014 of 2013 and the same was disposed of vide order dated 09.12.2013 with a direction to the respondents to consider the claim of the petitioner but the same has been rejected vide impugned order dated 22.02.2014 at Annexure P-11. Precise contention raised is that the

respondents have violated Articles 14 and 16 of the Constitution of India and the impugned order dated 22.02.2014 at Annexure P-11 cannot sustain as the same is in violation of the State Government Notification dated 29.07.2011.

Having heard counsel for the petitioner at length, this Court is of the considered view that the writ petition merits dismissal.

Perusal of the impugned order would reveal that while declining the claim of the petitioner seeking regularization, it has been observed that the petitioner had been engaged by the Branch Manager of the Bank as a Sweeper purely on part time basis to work for 2-3 hours daily and was being paid out of the contingency funds. Her attendance record was also not been maintained as such. It has been observed that the part time engagement of the petitioner as a Sweeper entailed the cleaning/sweeping of an area of approximately 1300 sq. feet and after finishing such job, the petitioner was never retained in the bank and was free to work anywhere else thereafter. Such observations contained in the impugned order dated 22.02.2014 (Annexure P-11) have not been rebutted by the counsel appearing for the petitioner.

That apart, the Notification dated 29.07.2011 (Annexure P-9) envisages regularization of service of such Group 'C' and 'D' employees engaged on ad hoc/contract/work charged/daily wages and part time basis, who fulfill certain conditions and the same have been enumerated in the policy document itself and reads as follows:

“The services of such Group C and Group D employees/workers appointed/engaged on adhoc/contract/work-charged/daily wages and part time basis shall be regularized if they fulfill the following conditions, namely:-

- (i) That the employee/worker should have continued to work for not less than ten years as on 10.04.2006 and is still in service but not under cover of the orders of the Courts or Tribunals, against duly sanctioned vacant posts. The period of continuous break in such service should not be more than one month in a calendar year.*
- (ii) That the employer/worker possessed the minimum prescribed qualifications for the post on the date of appointment/engagement.*
- (iii) That the concerned employee should have been appointed only after either his name has been sponsored by the Employment Exchange or has been appointed/engaged on the basis of recommendations made by the Departmental Selection Committee by inviting applications through advertisement against duly sanctioned vacant post.*
- (iv) That the work and conduct of such employee should have been throughout satisfactory and no disciplinary or criminal proceedings should be pending against him.*
- (v) That the employee should be regularized against a sanctioned vacant post of relevant category.*
- (vi) A medical fitness certificate and documentary proof of Date of Birth as per the instructions shall be obtained from the employee concerned.*
- (vii) His antecedents should be got verified by the police as per the Government instructions if it was not done earlier.*
- (viii) No relaxation of the criteria as laid down above shall be allowed.”*

Clause (iii) specifically provides that an employee to claim

benefit of regularization under the Notification dated 29.07.2011 should have been engaged only upon his/her name having been sponsored by the Employment Exchange or having been appointed/engaged on the basis of recommendations made by a Departmental Selection Committee by inviting applications through advertisement and against duly sanctioned vacant posts.

The pleadings on record are completely silent as regards the petitioner having been engaged as a part time Sweeper only upon her name having been sponsored by the Employment Exchange or she having been engaged on the basis of recommendations made by a Departmental Selection Committee and such engagement being against the duly sanctioned vacant posts. Even during the course of arguments, no submission has been advanced as regards petitioner fulfilling requirement of Clause (iii) of the Notification dated 29.07.2011.

Under such circumstances, this Court does not find any infirmity in the impugned order dated 22.02.2014 at Annexure P-11 declining the claim of the petitioner seeking regularization in service.

The writ petition is without merit and is dismissed.

29.07.2016

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

- | | | |
|-----|----------------------------|-----|
| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether Reportable? | Yes |