

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.9080 of 2010

Date of Decision:- 04.05.2016

Mohinder Kumar and others

....Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present: Mr. J.K. Goel, Advocate
for the petitioners.**

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

**Mr. C.S. Singh, Advocate
for Mr. G.S. Hooda, Advocate
for respondent No.4.**

RITU BAHRI, J. (Oral)

Petitioners are seeking quashing of order/letter dated 02.04.2010 (Annexure P-9) and further directions to the respondents to confirm/regular their services with effect from 03.01.1997 and release all the consequential benefits.

In the month of December, 1996, there was a strike of regular Sweepers working in various Municipal Council in Haryana State and in order to cope up with the urgency of work, the Haryana State had decided to make fresh appointment of Sweepers against the regular vacancies with each Municipal Council in the District. The petitioners were appointed as

Sweepers, vide appointment letters dated 03.01.1997 effective from

28.12.1996, 30.12.1996, 01.01.1997 and 03.01.1997 respectively. The Deputy Commissioner, Kurukshetra (respondent No.3) had issued a letter dated 07.02.1997 (Annexure P-2) to the Municipal Council, Thanesar (respondent No.4) regarding regularization of services of sanitation staff particularly the petitioners and others. Thereafter, respondent No.1 in continuation of his earlier decision dated 31.03.1997, further conveyed the decision dated 13.05.1997 (Annexure P-3), for regularization of the services of those employees, who recruited during strike period. Petitioners had sent a legal notice dated 04.02.2002 (Annexure P-4) to the respondents' authorities but no action has been taken thereon. Thereafter, in pursuance to the order dated 07.10.2002 passed in CWP No.16056 of 2002, the petitioners were issued appointment letters on 31.03.2003 (Annexure P-6) for the post of Sweeper on adhoc/probation basis and one of the condition was that if the work and conduct was not found satisfactory in that case the employees will be reverted back on daily wages basis. The petitioners have joined after giving the necessary medical certificate (Annexure P-7). Thereafter, the request of the petitioners for regularization of their services was declined, vide letter/order dated 02.04.2010 (Annexure P-9), on the ground that there was no policy of regularization as yet and they have to wait till a policy is framed by the State Government.

Learned counsel for the petitioners submits that other sweepers, who had been issued appointment letters on 31.03.2003 (Annexure P-6), pursuant to order dated 07.10.2002 passed in CWP No.16056 of 2002, had approached this Court for regularization in **CWP No.3229 of 2011** titled **Ms. Jogindero Devi and another Vs. State of Haryana and others**. The

interpreting the appointment letters dated 31.03.2003 it was held that there was a specific condition on probation for a period of one year and in case the work and conduct would not found to be satisfactory, he would be reverted back on daily wages basis. It was a regular appointment after getting the medical fitness certificate. Order dated 12.01.2011, rejecting the claim of the petitioners that deceased was working on adhoc basis and the petitioners were not entitled for compassionate appointment or financial assistance, was set aside. Consequently, the writ petition was allowed by following the judgment of the Hon'ble Supreme Court in *High Court of M.P. Through Registrar and others Vs. Satya Narayan Jhavar*, 2001 (7) SCC 161 while interpreting the relevant rules had observed that where there was a provision in the rules for initial probation and extension thereof, a maximum period for such extension is also provided beyond which, it is not permissible to extend probation. The inference in such cases is that the officer concerned is deemed to have been confirmed upon expiry of the maximum period of probation in case before its expiry the order of termination has not been passed.

The case of the present petitioners is squarely covered by the above-said judgments and order dated 02.04.2010 (Annexure P-9) is set aside. The respondents are directed to pass appropriate orders for regularization of services of the petitioners as per the appointment letters and thereafter give all the consequential benefits to them, within a period of one month, along with 9% interest per annum, from the date of filing of the present writ petition.

May 04, 2016

naresh.k

(RITU BAHRI)

JUDGE