

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.W.P. No. 20379 of 2015
Date of Decision:- 11.08.2016

Subhash Chand and others

....Petitioners

vs.

State of Punjab and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Hemender Goswami, Advocate,
for the petitioners.

Mr. T.N. Sarup, Addl. AG, Punjab,
for respondents No. 1 and 2.

Mr. S.K. Arora, Advocate,
for respondents No. 3 and 4.

DAYA CHAUDHARY, J.

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing respondents to extend the benefit of judgment passed by this Court in CWP No.2802 of 2003 titled as **Sukhminder Kaur and others** vs. **State of Punjab and another**, decided on 08.02.2013 (Annexure P-5). A further prayer has also been made to regularize the services of the petitioners w.e.f. 23.1.2001 as per the policy decision of even date i.e. 23.1.2001 (Annexure P-3) with all consequential benefits such as seniority and pay fixation along with arrears and interest thereon.

Briefly, the facts of the case are that the petitioners were initially appointed as Clerks and Sewadars on temporary basis in pursuance of the resolution dated 28.10.1993 passed by the Notified Area Committee, Cheema, District Sangrur. The Government of Punjab issued a policy dated 23.1.2001 whereby a decision was taken to regularize the services of those employees who were working on work charged/daily wage basis and other categories of employees, who completed three years of service. Thereafter, another policy was framed on 18.3.2011 whereby it was decided by the State Government to regularize the services of the employees who were working as daily wagers or on Muster Roll basis, who were having 10 years of service to their credit till December, 2006. In pursuance of said policy, the services of the petitioners were regularized vide order dated 11.8.2011 w.e.f. 23.1.2001.

Subsequently, some similarly situated employees who were appointed as Clerks and Peons in the Nagar Panchayat, Sahnewal, District Ludhiana, on temporary basis also claimed regularization of their services on the basis of above-mentioned policy by way of filing CWP No. 2802 of 2003, which was allowed vide judgment dated 8.2.2013 and their services were ordered to be regularized w.e.f. 23.1.2001 as per policy decision dated 23.1.2001. State of Punjab filed appeal against said judgment, which was dismissed on 2.7.2013. Nagar-Panchayat, Sahnewal also challenged judgment dated 8.2.2013 passed by Single Judge before the Division Bench by way of filing LPA No.962 of 2013 and said appeal was partly allowed vide order dated 10.12.2013 to the limited extent that no monetary benefits shall be granted to the petitioners and they shall be entitled to

notional benefits of seniority and pay fixation from the date of regularization to be fixed as per judgment of the Single Bench.

Learned counsel for the petitioners submits that as per decision of the Court, the services of 8 Clerks were regularized w.e.f. 23.1.2001. Thereafter, some other similarly situated employees also filed CWP No.17482 of 2003 titled as **Manoj Kumar and others** vs. **State of Punjab and others**, for regularization of their services w.e.f. 23.1.2001 and the said petition was also allowed. Learned counsel submits that the petitioners are also similarly situated and they are entitled to the same relief as granted to other similarly situated employees. Learned counsel further submits that case of the petitioners is squarely covered by decision rendered in **Sukhminder Kaur's case**, (supra) (Annexure P-5).

Learned counsel for the respondents opposes the submissions made by learned counsel for the petitioners.

Learned State counsel also submits that the petitioners are not entitled for regularization as they were appointed on contract basis as per instructions issued by Department of Personnel, dated 23.1.2001. The case of the petitioners being contractual employees is not covered by the Policy under which the petitioners are claiming benefit. Learned State counsel also submits that the petitioners did not fulfill essential requirement of passing the type test which is mandatory as per statutory Rules.

Heard arguments of learned counsel for the petitioners as well as learned State counsel.

Date of appointment and policies framed by the State

Government have not been disputed by learned counsel for the parties. It is also not disputed that the petitioners are working for the last more than 10 years and services of similarly situated employees as mentioned above have also been regularized w.e.f. 23.1.2001. They were granted benefit on the basis of judgment of Single Bench which was challenged in LPA No.962 of 2013. Admittedly, said LPA was partly allowed and petitioners in said case were held entitled to notional benefit of seniority and pay fixation from the date of regularization as per orders passed by the Single Judge. However, those petitioners were not entitled for any monetary benefits. Petitioners are also similarly situated to the petitioners in CWP No. 2802 of 2003 as well in CWP No. 17482 of 2003. In said cases, the petitioners were regularized w.e.f. 23.1.2001 i.e. the date of issuance of policy instructions. The relevant portion of the judgment in case CWP No.2802 of 2003 is reproduced as under:-

“All the grounds pressed by the respondents for denying the petitioners the benefit of the policy decision dated 23.1.2001 (Annexure P- 7) having been found to be unsustainable, the present writ petition deserves to be allowed. It may be added here that the petitioners had earlier filed CWP No. 329 of 1997 claiming the minimum of the pay scales of the posts held by them which also stood allowed by this Court vide order dated 19.10.2000 (Annexure P-5) wherein the petitioners were granted arrears of three years prior to the date of filing of the writ petition which has also been paid to the petitioners.

The Letters Patent Appeal as well as the SLP preferred by the

respondents have also been dismissed by the Courts.

In view of the above, present writ petition is allowed. Direction is issued to the respondents to regularise the services of the petitioners w.e.f. 23.1.2001 as per the policy decision dated 23.1.2001 (Annexure P-7).

Petitioners shall be entitled to all consequential benefits from the date of their regularisation except for the monetary benefit, which shall be restricted to three years and two months prior to the date of filing of the present writ petition.

Counsel for respondent No.2 has stated that the petitioners were already getting minimum of the pay scales and, therefore, the amount which now the petitioners may be entitled to may be permitted to be adjusted. It goes without saying that such a step is required to be taken by the respondents at their own without clarification by this Court.”

Paragraph 7 of the judgment passed in LPA No.962 of 2013 is also relevant in the present case which is as under:-

“Consequently, the instant appeal is allowed in part to the limited extent that no monetary benefits shall be granted to the respondents though they shall be entitled to notional benefits of seniority and pay fixation from the date of regularization to be fixed as per order passed by the learned Single Judge. The minimum pay scale already granted to the private respondents shall also remain unaffected.”

In view of facts mentioned and law position as discussed above, present petition deserves to be allowed. Accordingly, respondents are directed to regularize the services of the petitioners w.e.f. 23.1.2001 as per policy decision dated 23.1.2001. The petitioners shall also be entitled for all consequential benefits from the date of their regularization except for the monetary benefits which shall be restricted to 38 months prior to date of filing of the present petition.

Ordered accordingly.

August 11, 2016
poonam

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No