

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

CWP No.2500 of 2013 (O&M)

Date of decision: January 07, 2016

Santosh Devi

...Petitioner

versus

**Managing Director, Haryana Agro Industries Corporation Limited and
another**

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ravinder Malik (Ravi), Advocate,
for the petitioner.

Mr. Pankaj Gupta, Advocate,
for the respondents.

RITU BAHRI, J.

The petitioner is seeking a writ of mandamus directing the respondent-corporation to regularize her services as part time Sweeper (Class IV Employee) in view of Haryana Government notification dated 29.07.2011 (Annexure P-2).

Santosh Devi-petitioner was appointed on the post of part time Sweeper in the year 1990 with the respondent-corporation. Thereafter, the Haryana Government, vide notification dated 29.07.2011, framed a policy for regularization of services of adhoc/contract/work charged/daily wage part time employees as per the guidelines issued by the Hon'ble Supreme Court. Consequent upon the aforesaid policy, petitioner approached the respondent-corporation many a times to regularize her services, but to no effect.

Reference has been made to the order dated 11.04.2012 (Annexure P-4),

whereby the District Education Officer, Yamuna Nagar has regularized the services of part time Sweepers as per police dated 29.07.2011.

Upon notice, written statement on behalf of the respondents has been filed, wherein it has been stated that as per policy dated 29.07.2011, an employee has to fulfill the following conditions:-

(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.

Xx

xx

xx

(v) That the employee should be regularized against a sanctioned vacant post of relevant category.

As per condition No. (v) above, there should be a sanctioned post of Sweeper lying vacant with the respondent-corporation. In response to the legal notice dated 08.08.2012, the petitioner was duly informed vide letter No.13543 dated 18.02.2013. As per restructuring plan approved by HBPE, the posts of Chowkidars, Helpers and Sweepers have not been sanctioned. These posts have been put in Diminishing Cadre. It was further stated that as and when the posts fall vacant due to any reason, they would stand abolished and the services are to be outsourced on contract basis. Hence, the services of the petitioner cannot be regularised. The minutes of meeting of the Standing Committee on Public Enterprises held on 06.01.2004 have been annexed Annexure R-1. Decision of the Standing Committee has been approved by the State Government, which has been conveyed by the Financial Commissioner & Principal Secretary to Government of Haryana, Agriculture Department vide memo dated

09.06.2004 (Annexure R-2).

A perusal of these two documents shows that a conscious decision has been taken by the respondent-corporation that services of Group-D employees would be outsourced on contract. There were seven sanctioned posts of Sweepers under Category-D with the respondent-corporation. Under the restructure plan, these posts along with many other posts were put under “Diminishing Cadre”. It would mean that as and when these seven posts become vacant, they would stand abolished forthwith. It would mean that after 2004, no fresh post was available for appointment/regularization of any part time daily wage employee as a Sweeper.

Pursuant to the order dated 30.10.2014 passed by this Court, a detailed affidavit dated 07.11.2014 of Brijendra Singh, Managing Director, Haryana Agro Industries Corporation Limited has been filed. In this affidavit, it has been explained that the petitioner was appointed as part time Sweeper in 1990 and thereafter, one Sultan Singh was appointed on compassionate ground on the post of Sweeper on 02.07.1998. After framing of Policy for regularization of services of Group C and Group D employees on 29.07.2011, no one has been regularized and no request for further sanctioning of the post of Sweeper has been made by respondent-corporation to the competent authority or State Government in the past 24 years. After restructural plan was approved in 2004, all the seven posts of Sweeper have been put under “Diminishing Cadre” and it was finalized that these services would be outsourced on contract. Reference has been made to one Ajay Kumar, who was engaged as part time Sweeper for four hours per day w.e.f. 04.07.2008 to 30.09.2008. His name has been struck off from the rolls of the

Corporation vide order dated 12.03.2014 on the ground of willful absence from duty.

After going through the aforesaid detailed affidavit, it is apparent that no regular appointment has been made by the respondent-corporation after Restructural Plan has been approved vide Annexure R-2. In view of the Restructural Plan, the petitioner has no right to claim regularization in the Corporation. Hence, no case for regularization of his services is made out.

Dismissed.

(RITU BAHRI)
JUDGE

January 07, 2016.
ajp