

**210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.27266 of 2013 (O&M)

Date of decision : December 13, 2016

Manjinder Kaur

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ramesh Goyat, Advocate for the petitioner.

Mr. Ravi Partap Singh, AAG, Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

The husband of the petitioner was appointed as Electrician with the respondent-department on daily wages on 01.01.1994. Petitioner filed CWP No.10068 of 1999, titled as “Avtar Singh and others vs State of Haryana” on 14.12.1999 seeking directions to the respondents for regularization of services.

It comes out that the services of the husband of the petitioner were terminated. The said writ petition was withdrawn on 19.11.2001. The husband of the petitioner Avtar Singh challenged the said termination. Vide Award dated 15.09.2010 (Annexure P-1), petitioner Avtar Singh was reinstated with continuation of service and with 50% back wages. Accordingly, Avtar Singh joined duties on 21.10.2011. On 17.01.2012, the husband of the petitioner died. At that time, he had completed 18 years of service on daily wages.

It is alleged that service of the husband of the petitioner was not regularized. Though services of Amarjit Singh and Rajesh Kumar, Electricians, who were at par with the husband of the petitioner, were regularized w.e.f. 31.01.1996, in terms of the Regulation Policy, 18.03.1996.

Petitioner also filed CWP No.15029 of 2013, claiming family pension, which was disposed of on 16.07.2013 by this Court with a direction to respondent No.2 to decide the legal notice of the petitioner. Accordingly, a speaking order dated 06.09.2013 (Annexure P-10) was passed, whereby the family pension of the petitioner was declined on the ground that the same is not permissible to the family of the daily wages workers.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Admittedly, the husband of the petitioner was working as daily wages worker. The speaking order dated 06.09.2013 (Annexure P-10) shows that only prayer was made for grant of family pension. No prayer was made for grant of deem date of regularization of the service of the husband of the petitioner. The copy of the previous petition has not been placed on file to show that what relief has been made and sought. In the present case, there is reference of two persons, namely, Amarjit Singh and Rajesh Kumar, who were Electricians and whose services were regularized.

The respondents in the written statement has taken the stand that their cases are different and the husband of the petitioner cannot be given the deem date of regularization. In the written statement, the

respondents have not denied the factum that the husband of the petitioner was working on the daily wages and was terminated and then was reinstated by the Labour Court.

It is stated that the husband of the petitioner worked with the respondent-department from 01.01.1994 to 31.07.1994 and then from 01.08.1994 to 21.10.2011 he remained terminated and was reinstated by the Labour Court. The period from 01.08.1994 to 21.10.2011 was treated as duty period and he worked with the respondent-department till 17.01.2012. In this way, the husband of the petitioner actually worked with the respondent-department from 01.01.1994 to 17.01.2012.

As per Annexure P-4, the policy of regularization of the work charged/casual daily wages workers is subject to requisite qualification for the post. The daily wagers are appointed against the available post and in case, the posts are not available, then the regularization was to be effected after creating the posts by the Finance Department or be regularized in Group D scale on compassionate grounds like other daily wagers, subject to certain conditions.

In the present case, the appointment of the husband of the petitioner was not regularized in any manner. It was further stated that the case of the petitioner is not covered under Rule 3.17-A of the Punjab Civil Services Rules, Volume-II, Chapter 3 as applicable in Haryana. Therefore, she is not entitled to the family pension.

I am of the view that both the employees Amarjit Singh and Rajesh Kumar, are mentioned as Electrician and their cases have not equity with the daily wagers.

Learned counsel for the State has claimed that no junior of the petitioner was ever regularized.

Learned counsel for the petitioner has attached the authorities with the present petition, which pertain to the persons-employees, who applied through Employment Exchange, whereas in the present case, the petitioner was not issued any appointment letter. His employment is not claimed to be through Employment Exchange. Therefore, the services of the husband of the petitioner cannot be regularized in the absence of the policy and eligibility. Once, the services of the husband of the petitioner are not regularized by the Government, he cannot be treated as regular employee so as to claim the benefits of family pension.

In view of the matter, I do not find any merit in the present writ petition. The same is, accordingly, dismissed.

(KULDIP SINGH)
JUDGE

December 13, 2016

sarita

Whether speaking / reasoned Yes

Whether Reportable: No