

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

CWP No.5937 of 2013

Date of decision: 18.02.2016

Nirmala Devi and another

...Petitioners

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sunil Kumar Bhardwaj, Advocate,
for the petitioners.

Mr. Keshav Gupta, AAG, Haryana.

RITU BAHRI, J.

The petitioner is seeking quashing of order dated 14.08.2012 (Annexure P-14) whereby his claim for regularization w.e.f. 01.10.2003 has been rejected on the ground that other employee has been appointed prior to him.

Vide order dated 14.08.2012 (Annexure P-14), case of petitioners namely Nirmala Devi and Ved Kaur was considered for regularization pursuant to the order dated 29.02.2012 passed by this Court in CWP No.12301 of 2011, whereby directions were given to the respondents to consider their claim for regularization. A perusal of the impugned order (Annexure P-14) shows that petitioners-Nirmala Devi and Ved Kaur were appointed as Gram Savika on adhoc basis on 18.04.1995 and 12.04.1995 respectively. Their case for regularization was considered as per

Regularization Policy dated 01.10.2003. But, on account of non availability of ACRs, their case was not considered for regularization. As per condition No. 7 (III) of the Policy, over all work and conduct of the employee, to be regularized, should be good and no disciplinary/criminal proceedings should be pending against them. In the absence of any ACR records, their case for regularization was not considered as per Policy of regularization dated 01.10.2003. However, subsequently, as per Policy of regularization issued on 29.07.2011, the services of the petitioners have been regularized.

Grievance of the petitioners is that they should have been regularized as per regularization policy dated 01.10.2003. Even in the written statement filed by the respondents, they have not stated, 'whether any disciplinary/criminal proceedings were pending against them. A perusal of the written statement shows that services of 12 Gram Sevikas were not regularized due to non availability of confidential record. After a decision given by the Hon'ble Supreme Court in Uma Devi's case, policy of regularization dated 01.10.2003 was withdrawn vide letter dated 25.04.2007. However, as per regularization policy dated 29.07.2011, they have now been regularized.

On account of misplacement of confidential reports, the petitioners have been denied their legitimate right of regularization as per policy dated 01.10.2003. As per the said policy, they should have completed three years of adhoc service to become regular employees. They were appointed way back in the year 1995 and up till 2003, they had put in almost 8 years of service. At the same time, pursuant to the policy dated 01.10.2003, 33 Gram Sevikas working on adhoc basis since 1994-95 have been regularized whose confidential records were available. The petitioners

cannot be put to a disadvantage with similarly situated employees on account of the default, which has to be attributed to the department.

In view of the above, the impugned order dated 14.08.2012 (Annexure P-14) is modified and the petitioners are ordered to be regularized w.e.f. 01.10.2003 along with all consequential benefits.

Allowed accordingly.

18.02.2016
ajp

(RITU BAHRI)
JUDGE