

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

CWP No.11905 of 1995

Date of Decision:06.02.2017

Usha Rani

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. R.K. Malik, Sr. Advocate with
Mr. Kuldeep Sheoran, Advocate for the petitioner.

Mr. Harish Rathee, Sr. D.A.G. Haryana.

P.B. BAJANTHRI J.

In the instant petition, the petitioner has sought for quashing Annexure P-9 by which the petitioner's claim for regularization w.e.f. 15.9.1982 has been rejected. The petitioner further seeks direction to consider her case for regularization w.e.f. 15.9.1982 or in the alternative w.e.f. 1.11.1986 in view of the instructions Annexure P-11 read with para 22 of the judgment of the Hon'ble Division Bench reported as 1988 (4) SLR 739 and 1992 (3) RSJ 235; State of Haryana v. Piara Singh and it was further prayed that case of the petitioner for regularisation w.e.f. 30.9.1988 in view of the policy decision Annexure P-12.

Learned counsel for the petitioner submitted that the petitioner is entitled for regularization under the policy dated 16.2.1987 (Annexure P-11) or Annexure P-12 dated 6.4.1990.

Perusal of the records, it is evident that there is no demand with reference to Annexure P-11. The petitioner's services have been regularized w.e.f. 31.12.1990. The respondents have considered the grievance of the petitioner for the purpose of regularization earlier to 30.12.1990 and

assigned the reasons that the petitioner is not entitled to regularization as per Annexure P-12 as it is restricted to only reserve candidates and further for want of clear vacancies against general category, on that particular date.

Learned counsel for the petitioner further submitted that having regard to the initial appointment on ad-hoc basis, there was a clear vacancy as per Annexure P-2. Hence, the petitioner is entitled for regularization earlier to 31.12.1990 i.e. in the year 1982, 1986 or 1988.

Learned counsel for the respondents vehemently pointed out from the written statement where the stand of the respondents is that petitioner is not entitled for regularization earlier to 31.12.1990 for the reasons that vacancies under General category were not available till 31.12.1990. Therefore, the petitioner is not entitled for regularization prior to such date.

Heard learned counsel for the parties.

Short question for consideration in the present case is whether the petitioner is entitled for regularization prior to 31.12.1990 having regard to the prayer made in the present petition that the petitioner has sought for regularization w.e.f. 15.9.1982, 1.11.1986 or 30.9.1988.

Learned counsel for the petitioner pointed out from Annexure P-2 that she has been taken on ad hoc basis against un-reserve vacancy. Perusal of Annexure P-2, it is evident that it is not a regular vacancy. It is a temporary vacancy. Therefore, the contention of the petitioner that her regularization w.e.f. 15.9.1982 is not tenable.

With regard to other dates of regularization is concerned, relevant instructions are dated 16.2.1987 and 6.4.1990 as Annexures P-11 and P-12 respectively. For the purpose of regularization of an employee

under Annexures P-11 and P-12, certain conditions have been imposed that regular vacancies should have been there. The respondents have specifically pointed out that regular vacancy was available only on 31.12.1990. Therefore, question for considering the case of the petitioner prior to 31.12.1990 would not arise. On the other hand learned counsel for the petitioner submitted that this Court has specifically directed the respondents-department to file an affidavit what is the date of occurrence of general category vacancy. To that effect, an affidavit has been filed on 30.1.1996 in which they have pointed out that about six persons were appointed as Steno Typist in the year 1983 through Subordinate Services Selection Board against the general category. However, no vacancies were available as on the date of issuance of instructions relating to regularization dated 6.2.1987 and 6.4.1990. Therefore, the petitioner's contention that respondents have failed to point out that the general vacancies had occurred in the year 1982.

Accordingly, the petitioner has not made out a case so as to seek direction to alter the date of regularization from 31.12.1990 to that of 15.9.1982 or 1.11.1986 or 30.9.1988. Moreover, petitioner's services are already regularized w.e.f. 31.12.1990 and such date and order is not assailed and it is intact.

The petition stands dismissed.

06.02.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No