

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

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**CWP-14622-2015 (O&M)
Date of decision: 18.01.2017**

Sita Devi

....Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Rahul Deswal, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has questioned the portion of the order dated 05.03.2014 (Annexure P5) by which the petitioner has been denied arrears of pay from 08.05.2003 to 11.02.2013. The petitioner is stated to have been appointed on part-time basis in the Education Department. Her services have not been regularized. Thus, she has approached this court. This court disposed of her petition on 04.05.2012. Pursuant to the order passed in CWP No. 8260 of 2012 dated 04.05.2012 the respondents proceeded to regularize the services of the petitioner w.e.f. 08.05.2003 on 05.03.2014. Perusal of the Annexure P5 it is evident that petitioner has been denied arrears for the period from 08.05.2003 to 11.02.2013.

2. Learned counsel for the petitioner submitted that once the employee's services are regularized with a particular date, she is entitled to all service benefits as if she is regular holder of the post w.e.f. the date of regularization. Therefore, denial of arrears or any service benefits from 08.05.2003 the date on which the petitioner's services were regularized, is highly arbitrary and illegal.

3. On the other hand, learned counsel for the respondents submitted that there were no sanctioned post as on 08.05.2003. Therefore, the petitioner has been denied arrears from 08.05.2003. It was further contended that since the petitioners services have been regularized with retrospective date hence she is not entitled for the arrears. Thus, there is no infirmity in regularizing the service notionally w.e.f. 08.05.2003.

4. Heard learned counsel for the parties.

5. Admittedly, the petitioner was initially appointed as a part time employee and her services were not regularized on par with similarly situated persons. Thus, the petitioner filed a petition before this court. This court directed the respondents to regularize the services of the petitioner pursuant to the orders of this court dated 04.05.2012 passed in CWP No. 8260 of 2012. The respondents have regularized the services of the petitioner w.e.f. 08.05.2003. Denial of arrears from 08.05.2003 till the date of order of regularization is highly arbitrary for the reasons that an employee would get all service benefits from the date of regularization of her service. Contention of the respondents that there were no sanctioned post as on 08.05.2003. If it is so question of regularization would not have

arisen as on 08.05.2003. Therefore, denial of arrears from 08.05.2003 till 11.02.2013 is highly arbitrary. Thus, the portion of denial of arrears to the petitioner in Annexure P5 dated 05.03.2014 is set aside. The concerned respondent is directed to calculate arrears of pay from 08.05.2003 to 11.02.2013 and disburse the same to the petitioner within a period of 6 months from today.

6. CWP is allowed.

18.01.2017

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No