

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.22617 of 2015(O&M)
Date of Decision: 13.09.2017

Kulwinder Singh

--Petitioner

Versus

Indian Red Cross Society and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Mukand Gupta, Advocate for the petitioner.

Mr. K.K. Thakur, Advocate for the respondents.

TEJINDER SINGH DHINDSA.J

Petitioner, who was appointed as a Ward Boy under the Indian Red Cross Society and serving at the De-addiction Centre-cum-Rehabilitation Centre, Mansa, has filed the instant petition assailing the order dated 7.1.2015 (Annexure P-12), whereby his claim for regularization in service has been declined.

Facts of the case are in a narrow compass. Father of the petitioner was a regular Class-IV employee under the Indian Red Cross Society. He died in harness on 11.7.2002. Present petitioner was appointed on compassionate basis as a Ward Boy in terms of order dated 23.9.2002. Services of the petitioner having not been regularized, he filed O.A No.210/PB/2013 before the Central Administrative Tribunal, Chandigarh Bench and such O.A was disposed of on 4.7.2014 with a direction to the respondent Society to take a final decision on the representation of the applicant (present petitioner) seeking regularization in service. It is in purported compliance of the directions issued by the Central Administrative Tribunal that the impugned order dated 7.1.2015 (Annexure P-12) has been

passed.

Claim of the petitioner for regularization has been declined by citing the following reasons:-

- (i) Petitioner had been appointed as a Ward Boy on contract basis and by way of compassionate appointment which is not a right but only a concession.
- (ii) The policies on the subject of regularization framed by the State of Punjab do not apply to the Indian Red Cross Society, which is an autonomous body as the salary/grade is not given by the State Govt.
- (iii) Indian Red Cross Society, Mansa is under financial distress and the sources of income are limited and accordingly benefit of regularization in service cannot be accorded to the petitioner.

Having heard counsel for the parties at length and having perused the pleadings on record, this Court is of the considered view that the impugned order dated 7.1.2015 (Annexure P-12) declining to the petitioner benefit of regularization in service, cannot sustain.

It is not in dispute that vide order dated 8.4.2005 (Annexure P-13) one Smt. Deepa Bisht was appointed as Peon i.e. a Class-IV post on compassionate basis on account of death of her husband who was also serving as a Peon under the Indian Red Cross Society and had died in harness on 1.2.2005. Afore-noticed Smt. Deepa Bisht had been granted benefit of regularization vide order dated 22.11.2013 (Annexure P-14), passed by the Deputy Commissioner-cum-Chairman, Indian Red Cross Society, District Branch, Mansa.

Perusal of the appointment letter of Smt. Deepa Bisht on a Class-IV post dated 8.4.2005 would reveal that such appointment apart from having been granted on a compassionate ground was also on contract basis for six months. There is a clear stipulation in her appointment letter that her services could be terminated at the end of the contract period without any notice and without assigning any reason. It is not the case of the respondent Society that Smt. Deepa Bisht had been appointed against a regular vacant post.

Strangely, the grounds as regards regularization policies formulated by the State Govt. not being applicable to the Indian Red Cross Society, adverse financial position of the District Red Cross Society, Mansa and the initial appointment being on a contractual basis have been cited only in the case of the petitioner to deny him benefit of regularization but the same very grounds have not held good in the case of Smt. Deepa Bisht, who was identically situated and who had also been initially appointed on contractual basis. Her length of service on contractual basis was for a period of 8 years, whereas petitioner has been denied the same very benefit of regularization in the light of impugned order dated 7.1.2015 (Annexure P-12) inspite of having served for a period in excess of 12 years.

This Court would have no hesitation in holding that the action of the respondent Society is arbitrary and violative of Articles 14 and 16 of Constitution of India. The impugned order dated 7.1.2015 (Annexure P-12), if, tested on the touch stone of fairness and equality, cannot sustain. Petitioner is entitled to the benefit of regularization on the ground of parity with Smt. Deepa Bisht.

For the reasons recorded above, impugned order dated 7.1.2015 (Annexure P-12) is set aside. Respondent Society is directed to issue orders forthwith as regards regularization of services of the petitioner on the post of Ward Boy/Class-IV post.

Petition is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

13.09.2017

lucky

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No