

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.22272 of 2017(O&M)
Date of Decision: 17.11.2017

Yusuf Mohammad & others

--Petitioners

Versus

Punjab State Power Corporation Limited
and others

--Respondents

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

Present:- Mr. Karan Bhardwaj, Advocate for the petitioners.

TEJINDER SINGH DHINDSA.J

The petitioners, who are nine in number, are stated to be serving as part time Sweepers under the Punjab State Power Corporation Ltd. They are being paid salary as per D.C rates. The service particulars of the petitioners have been furnished in a tabulation contained in para 2 of the writ petition.

Prayer raised in the instant petition is for regularization in service.

Counsel places reliance upon the Punjab Ad hoc, Contractual, Daily Wage, Temporary, Work Charged and Outsourced Employees Welfare Act, 2016 (herein after to be referred as the 2016 Act) and in particular to Section 4 of the 2016 Act and which reads as under:-

“Regularisation of services of Group 'D' employees.

4. (1) Notwithstanding anything contrary contained in any law, judgment,decree or order of any court, tribunal or any other authority, services of such Group 'D' employees, who are working on ad hoc, contractual, daily wage, temporary or work charged basis under the State Government or its entities for a continuous period of not less than three years preceding

the date of coming into force of this Act shall be regularised by the competent authority in such service of the State Government or its entities, subject to the following conditions, namely:-

- (a) fulfill the eligibility with regard to minimum and maximum age limit;*
- (b) possess requisite educational qualification and experience as specified for the post under the service rules at the time of initial appointment;*
- (c) satisfactory verification of antecedents;*
- (d) have good character and conduct; and*
- (e) have not been indicted or undergoing any civil, criminal or departmental proceedings;*

Provided that the entities of the State shall consider regularization only if such entity is in a financial position to take the burden of such regularization on its own without transferring any liability to the State exchequer.

(2) During the probation period, a person regularised under this section shall be entitled to draw salary at the minimum of the Pay Band applicable to the post against which his services have been regularised in Group 'D' service, or actual remuneration being received at the time of regularization, whichever is more."

It is urged that the 2016 Act would have applicability not only qua Ad hoc, Contractual, Daily Wage, Temporary, Work Charge and Outsourced employees under the State Govt. but even to corresponding employees carrying same status and serving under a State entity.

By referring to the tabulation in para 2 of the writ petition, it is contended that each one of the petitioners has a work charge continuous service in excess of 3 years preceding the date of coming into force of the 2016 Act. Counsel further contends that the petitioners even fulfill the eligibility conditions enumerated under Section 4 of the 2016 Act.

Counsel for the petitioners has been heard at length.

Proviso to Section 4 of the 2016 Act clarifies that entities of the State would consider grant of benefit of regularization only if such entity is in a financial position to take the burden of such step and without transferring any liability to the State exchequer.

Be that as it may, it is incumbent for the respondent-Corporation to consider the claim of such daily wage employees, who, otherwise, fulfill the conditions of eligibility under Section 4 of the 2016 Act and to thereafter take a final call in the matter.

It would be broadly a policy decision falling within the domain of the respondent Corporation.

As such, without making any observations as regards the merit of the claim and prayer put forth, I deem it appropriate to dispose of the present writ petition with a direction to respondent no.1 i.e. the Chairman, P.S.P.C.L to examine the demand/prayer raised by the petitioners in the light of a legal notice dated 16.4.2017 (Annexure P-11) i.e. stated to have already been served.

A final view in the matter be taken expeditiously.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

17.11.2017

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