

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 8219 of 2015
Date of Decision: 03.05.2017

PREM LATA ... *Petitioner*
V/s
STATE OF HARYANA AND OTHERS ...*Respondents*

CWP No. 8233 of 2015

RAJ KAPOOR ... *Petitioner*
V/s
STATE OF HARYANA AND OTHERS ...*Respondents*

CWP No. 8291 of 2015

RAMWATI ... *Petitioner*
V/s
STATE OF HARYANA AND OTHERS ...*Respondents*

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH.**

Present: Mr. Ram Niwas Sharma, Advocate,
for the petitioner(s).

Mr. Apoorv Garg, DAG, Haryana

Mr. Deepak Manchanda, Advocate,
for respondent(s) No. 3.

KULDIP SINGH, J (ORAL)

By this single judgment, I shall dispose of three connected writ petitions bearing Nos. CWPs No. 8219, 8233 and 8291 all of 2015 having identical facts.

For the purpose of brevity, the facts have been extracted from CWP No. 8291 of 2015 titled as “Ramwati Vs. State of Haryana and others.”.

The petitioners are the retired Safai Karamchari from the office of the respondents-Municipal Committee, Panipat seek regularization of their services in terms of regularization policies dated 07.03.1996

CWPs No. 8219, 8233 and 8291 of 2015

(Annexure P-2), 18.03.1996 (Annexure P-3) and 01.10.2003 (Annexure P-4) followed by State Government order dated 20.06.2014 (Annexure P-10) they should be granted retiral benefits accordingly.

Brief facts of this case are that petitioner-Ramwati appointed as Safai Karamchari in the year 1988 on monthly wages @ ₹1340/-. In the year 1996, her services were terminated. Thereafter she raised a demand notice dated 07.10.1996 and the matter was ultimately referred to the Industrial Tribunal-cum-Labour Court, Panipat wherein award dated 14.10.2003 (Annexure P-1) setting aside the termination order of the petitioner was passed alongwith order of re-instatement of the petitioner with continuous service and back-wages to the extent of 50%. Later on, she was allowed to join the services in the respondent-department and vide letter dated 28.05.2014 (Annexure P-9) She was informed that she would be considered to be relieved w.e.f. 30.06.2014, i.e. the date on which she attained the age of 60 years. However, she was not paid pension and pensionary benefits under the Haryana Municipal Safai Mazdoor Service Rules, 1976.

In the written statement, respondent No. 3 has taken the stand that the policy dated 01.10.2003 (Annexure P-4) was withdrawn in the year 2007 in view of the judgment of the Supreme Court passed in “State of Karnataka and others Vs. Umadevi and others”. It was further stated that the petitioner did not work for 240 days in a calendar year. She worked for only 120 days in the year 1992, 152 days in 1993, 27 days in 1994, 115 days in 1995 and nil days in 1996. Thereafter, she left the engagement of the respondents-department. It was also stated that the petitioner-Ramwati cannot be considered under the policy of 2011 also.

CWPs No. 8219, 8233 and 8291 of 2015

I have heard the learned counsel for both the parties and have carefully gone through the case file.

The admitted facts are that the petitioner claims benefit under policy dated 01.10.2003 (*Annexure P-4*). Clause 3 of the same is being reproduced as under: -

3. Daily wage employees (Group-D)

“That only such daily wage employees who have completed three years service on Group-D posts on 30th September, 2003 and were in service on 30th September, 2003 shall be regularized against their respective Group-D posts, provided they fulfill the requisite qualifications and were originally appointed against vacant posts. Provided further they have worked for a minimum period of 240 days in each year and if the break in service of daily wage employee has been caused for no fault attributable to him, such break period should be condoned unless if it of an extraordinary longer period. However, if the break in service has been caused due to fault of the employee like abandonment of employee, the Government may not condone the same if the period of such break is more than a period 30 days.”

The petitioner claims that her service were terminated and she had moved to the Tribunal-cum-Labour Court, Panipat which re-instated her services with continuity and back-wages @ 50%, therefore, she continued to serve till 30.06.2014 i.e. when she attained the age of 60 years vide letter dated 28.05.2014 (*Annexure P-9*).

On the other hand, learned counsel for the respondent No. 3 has relied upon a letter dated 25.04.2007 (*Annexure P-5*) vide which in view of the judgment passed by Hon’ble the Supreme Court in “State of Karnataka and others Vs. Umadevi and others; (2006) 4 SCC passed on 10.04.2006, the regularization policy was withdrawn. It is stated that since the policy has

CWPs No. 8219, 8233 and 8291 of 2015

been withdrawn, therefore, the petitioner otherwise cannot be regularized. In addition to this, it is stated that the petitioner does not even fulfill the conditions of 2003 policy. Regarding policy dated 26.10.2014 (*Annexure P-10*), learned counsel for the respondent No. 3 has argued that same has been stayed by this Court.

Learned counsel for the petitioner has relied upon two judgments passed by different single benches of this Court one is CWP No. 5848 of 2011 titled as “Karamvir Singh Vs. State of Haryana and others” and two other connected cases, decided on 11.01.2012 (*Annexure P-11*), relating to the employees of the Municipal Committee, Panipat. Second is CWP No. 27024 of 2013 titled as “Jai Bhagwan Vs. State of Haryana and others” decided on 20.01.2016 alongwith connected case wherein on account of the plea that the services of juniors of the petitioner were regularized, they were held to be regularized as per policy dated 01.10.2003 (*Annexure P-4*). In the case of Jai Bhagwan (Supra) case, the petitioner(s) had joined the services on 01.01.1990 whereas the petitioner, in this case, has joined the respondent department in 1988. Learned counsel for the petitioner has claimed that this fact goes to show that the petitioner was senior to Jai Bhagwan and others. In the said judgment, it has been held that despite withdrawal of the policy, if the petitioner is found eligible before the withdrawal of the said policy, their services are liable to be regularized. The petitioner claims the benefit of policy dated 01.10.2003 (*Annexure P-4*). Clause 3 of which has been reproduced above.

The petitioner claims that she has completed 240 days whereas same is denied in the written statement and is also not controverted by way of filing of replication, though, in the award of the Tribunal-cum-Labour Court,

CWPs No. 8219, 8233 and 8291 of 2015

Panipat dated 14.10.2003 (*Annexure P-1*), it was held that the petitioner worked for more than 240 continuous days in calendar year and her services were terminated illegally in the year 1996 in violation of the provisions of 25 (f) of the Industrial Disputes Act, 1947.

As such, all the above three petitions are allowed to the extent that the respondent-Committee is directed to consider the case of the petitioner(s) in view of the policy dated 01.10.2003 (*Annexure P-4*) and from the records, if it is found that the petitioner(s) fulfills the conditions laid down under the said policy, regularize her service also in terms of the said policy and release of consequential benefits thereafter. Necessary order in this regard be passed within two months from the date of receipt of certified copy of this order.

May 3, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

<i>Whether speaking / reasoned</i>	:	✓ Yes	/	No ✓
<i>Whether Reportable</i>	:	Yes	/	No