

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4054 of 2017 (O&M)

Date of Decision: 01.03.2017

Assistant Director (Programme),

Head of Office-cum-Station Director, Prasar Bharati ... Petitioner

VS.

CAT & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

Present: Mr. Indresh Goel, Advocate for the petitioner

SURYA KANT, J. (Oral)

(1) The petitioner has laid challenge to the orders dated 27.08.2015 and 24.10.2016 passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal') whereby the claim of respondent No.2 for regularization of services and payment of wages at the rate fixed by Deputy Commissioner, Chandigarh was accepted and the review application filed by the petitioner has also been declined.

(2) We have heard learned counsel for the petitioner at a considerable length and gone through the record.

(3) We may at the outset observe that the claim of respondent No.2 squarely falls within the exceptions carved out by the Hon'ble Supreme Court in **Secretary State of Karnataka & Ors. vs. Umadevi & Ors. (2006) 4 SCC 1.**

We say so in the light of the following facts and circumstances:-

- (i) The name of second respondent was sponsored by the Regional Employment Exchange for appointment as a Casual Safaiwala (Sweeper) and he was appointed by the Station Director, Akashvani, Chandigarh w.e.f. 01.04.1991. His work and conduct was consistently certified to be satisfactory.

- (ii) The second respondent was engaged on muster-roll and paid wages as per the DC rates prevalent in Chandigarh from time to time. Services of second respondent were, however, dispensed with on 31.10.1996 against which he raised an industrial dispute. The Industrial Tribunal-cum-Labour Court vide award dated 13.02.2002 declared the termination of services to be illegal and he was held entitled to reinstatement with full back-wages.
- (iii) The award dated 13.02.2002 attained finality and consequently, respondent No.2 was reinstated in service. In this manner, he is working continuously as a daily wage Sweeper w.e.f. 01.04.1991.
- (iv) Respondent No.2 approached the Tribunal challenging the order dated 02.09.2014 vide which his claim for regularization of services in terms of the Government of India policy dated 10.09.1993 was declined. He also sought a direction for regularization of his services and for grant of regular pay scale. He further sought a direction to pay him wages during the intervening period at the rate fixed by Deputy Commissioner, Chandigarh.
- (v) The Tribunal vide order dated 27.08.2015 held that since respondent No.2 was working continuously from last more than 18 years, there are good reasons to direct regularization of his services. Consequently, a direction was issued to consider his claim. Meanwhile, it was directed that he be

allowed to draw wages on the basis of the rates approved by the Deputy Commissioner, Chandigarh.

- (vi) The petitioner-organisation filed review application which was entertained by the Tribunal on merits and has been dismissed by a self-speaking order reiterating that respondent No.2 was appointed through lawful procedure as his name was sponsored by the Regional Employment Exchange and that he was entitled to be considered for regularization of his services on the analogy of the Government of India policy dated 10.09.1993.

(4) In the light of the undisputed facts that respondent No.2 was appointed through a valid mode of recruitment in conformity with Articles 14&16 of the Constitution and is uninterruptedly working since 01.04.1991 and has already spent more than 25 years in the service of petitioner, we are satisfied that services of respondent No.2 deserve to be regularized regardless of any periodical policy. As regard to payment of wages at the rate fixed by DC Chandigarh, the same is only an interim measure till the regularization of services, for once the services are regularized, respondent No.2 would be entitled to a regular pay scale.

(5) In the light of the above discussion, we do not find any merit in this writ petition which is accordingly dismissed.

(Surya Kant)
Judge

01.03.2017
vishal shonkar

(Sudip Ahluwalia)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes
No