

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1963 of 2014 (O&M)

Date of Decision: 13.12.2017

Kanwarjeet Singh & Ors.

... Appellants

VS.

Union of India & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE SUDHIR MITTAL**

Present: Mr. DS Patwalia, Senior Advocate with
Mr. Gaurav Rana, Advocate for the petitioners

Mr. Kiranjeet Kaur, Advocate for
Mr. Rajender S Malik, Advocate for respondent No.1

Mr. Akshay Sethi, Advocate for respondents No.2 to 5

SURYA KANT, J. (Oral)

(1) This Letters Patent Appeal assails the order dated 01.10.2014 as well as the review order dated 21.11.2014 whereby learned Single Judge has allowed the appellants' writ petition in part only to the extent that a direction to grant them benefit of age relaxation for the period they have worked on contract basis has been granted to enable them to compete for recruitment on regular basis.

(2) The appellants are working as Multi Purpose Health Workers (MPHWs). They have been admittedly appointed under a scheme sponsored by Central Government under the National Health Mission. It may be true that the appellants are working from last 7-8 years or more but their claim for regularization of services was required to be considered by learned Single Judge in the light of the principles enunciated by the Constitution Bench in **Secretary, State of Karnataka & Ors. vs. Uma Devi & Ors. (2006) 4 SCC 1**. Having regard to the said *dictum*, we are of the considered view that the claim for

so firstly for the reason that the Chandigarh Administration has not created regular posts of MPHW against which a person can be appointed on regular basis. Secondly, the appellants have been engaged admittedly under the Scheme sponsored by the Central Government under the National Health Mission. So long as Union of India provides requisite grant under that Scheme to the State or the Union Territory, the appointees can be retained and not beyond that. A direction for regularization of services would mean that the appellants will have to be retained in service even if the Central Government does not release the grant under the National Health Mission. Thirdly, a direction to regularize services of appellants would amount to issuing a *mandamus* to the Chandigarh Administration to create regular posts of MPHW. Such a command would be beyond the scope of jurisdiction exercisable under Articles 226 of the Constitution as ruled by the Supreme Court in **State of Haryana Haryana & Ors. vs. Piara Singh & Ors. (1992) 4 SCC 118.**

(3) Suffice it to observe that the appellants can claim continuation on contract basis so long as the scheme subsists and they are not replaced by other contractual employees. Still further learned Single Judge has already granted age relaxation to the appellants to give them an opportunity to compete for appointment on regular basis against the posts for which they are eligible. Nothing more can be granted. Reliance placed by the appellants on the “Guidelines for Multipurpose Health Worker (Male) 2010” (A2) issued by Government of India, Ministry of Health and Family Welfare is also misplaced and misdirected. These Guidelines are neither the statutory Rules formulated under *proviso* to Article 309 of the Constitution nor are Executive Instructions of such a nature under which a right to seek regularization of services can be said to have been conferred.

(4) In this view of the matter, we do not find any ground to interfere with the orders passed by Learned Single Judge.

(5) Dismissed.

(Surya Kant)
Judge

13.12.2017
vishal shonkar

(Sudhir Mittal)
Judge

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| 1. Whether speaking/reasoned? | Yes |
| 2. Whether reportable? | No |