

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA No.2015 of 2017 (O&M)

Date of Decision :25.10.2017

Director General School Education

....Appellant

Versus

Geeta Rani and another

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI

....

Present: Mr.Anupam Singla, Advocate
for the appellant.

....

MAHESH GROVER, J. (Oral)

The appellant is in appeal against the judgment of the
learned Single Judge dated 26.07.2017.

In question is the issue of regularisation of respondent
No.1 as also many other Computer Teachers. Annexure P-3 is the
policy issued by the State and followed by the appellant which
contains the following stipulation :-

“B. Only those computer teachers will be regularized
who have completed the two and half years service till
dated 1.7.2011 and their work and performance is
found satisfactory. Apart from that, there should not be
any departmental disciplinary proceedings pending
against them.”

This was followed by another circular Annexure P-5 which contains the following stipulation :-

“(A) Only those computer teachers will be regularized who have completed 2-1/2 years of service on dated 01.07.2011 and their work and performance is satisfactory. Besides this no Departmental Disciplinary action is pending against them. On dated 01.08.2011 and after that, as per the conditions contained in the above cited letter, after every 4 months, those computer teachers who completes 2-1/2 years of service, their services will also be regularized.”

The respondent No.1 completed 2-1/2 years service on 28.08.2011 and thus according to the appellant her case for regularisation would be governed in terms of Annexure P-5 entitling regularisation in terms of afore-extracted Clause (A). The learned Single Judge has proceeded to apply the 2010 policy (Annexure P-3) to the case of respondent No.1 on the premise that her claim for regularisation crystalised in 2011 itself. We find the appeal can be disposed of with a minor correction in the error manifesting itself from the order of the learned Single Judge and since it does not alter the conclusion, there would be no necessity of issuing notice of motion.

The learned Single Judge has proceeded on the terms that 2010 circular would apply which, however, inhibited the consideration to the claim of regularisation to employees who had completed 2-1/2 years of service on 01.07.2011. Concededly, the respondent No.1 completed 2-1/2 years of service on 28.08.2011. Clause (A) of Annexure P-5, extracted above, envisages that case of all those employees who completed 2-1/2 years of service on 01.08.2011 and thereafter would be considered after every four months. This does not imply that the regularisation would flow from the date when consideration is accorded after four months. It necessarily has to relate to the date when an employee completes 2-1/2 years of service which in the case of the respondent No.1 is 28.08.2011. This is precisely what the learned Single Judge has granted to the respondent No.1.

Learned counsel for the appellant contends that although the case of respondent No.1 was liable to be considered in December 2011 but it could not be so done for the reason that a show cause notice had been issued to respondent No.1 which eventually was withdrawn but the consideration granted in April 2012 and, therefore, there was no error on their part considering the contents of instructions that disciplinary proceedings pending against an employee would disentitle him to claim regularisation. It is, however, conceded before us that the said show cause notice

was withdrawn by the appellant and if that is so then its effect clearly stood erased and hence cannot be construed to be an impediment to the grant of regularisation with effect from the date when the respondent No.1 completed 2-1/2 years of service i.e. on 28.08.2011. The appeal is, therefore, dismissed for the reasons stated above.

However, delay of 21 days in filing the appeal is condoned considering the explanation furnished by the appellant.

(MAHESH GROVER)
JUDGE

25.10.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No