

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

LPA No.489 of 2017 (O&M)

Date of Decision:- 30.03.2017

Managing Director, HAFED & Ors.

...Appellants

VERSUS

Bala Rani

....Respondent

**CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present:- Mr. D.S.Nalwa, Advocate for the Appellants.

SUDIP AHLUWALIA, J.

This Intra-Court Appeal has been preferred against the Order of the Ld. Single Judge passed in CWP No.3977 of 2014 dated 24.05.2016. Vide the impugned Order, the Ld. Single Judge had allowed the Writ Petition filed by the Respondent and directed the Appellants to consider her case for regularization of her service in terms of the Policy dated 29.07.2011 (Annexure P-2).

2) The background of the matter is that the Respondent was appointed as a Part Time Sweeper by the Appellants on 01.01.1989 and is working till date with the Appellant/Mill. Pursuant to the Policy dated 29.07.2011, she approached the Appellants for regularization of her service. The Appellant No.2 therefore, sought comments of Appellant No.3 regarding her prayer for regularization. Appellant No.3 vide his letter dated 19.4.2012, replied that the work and conduct of the Writ Petitioner was satisfactory and no enquiry was pending against her. It was the

further case of the Respondent that similarly situated persons like herself working as Part Time Sweepers had been regularized in the concerned District (Yamuna Nagar) by its District Education Officer vide order dated 11.04.2012. She thus sought similar relief in terms of the Policy dated 29.07.2011 (Annexure P-2).

3) The Ld. Single Judge allowed the Writ Petition by relying upon an earlier decision of this Court in '**Mohammad Farookh and anr. Vs. State of Haryana and others'** 2012(6) SLR 687.

4) In the backdrop of the aforesaid decision, the Ld. Single Judge has observed inter-alia -

“Once the petitioner is fulfilling the condition (i) of policy dated 29.07.2011 that an employee/worker should have continued for not less than ten years as on 10.04.2006 and is still in service, petitioner is entitled for regularisation of her service. The respondents cannot reject the claim of the petitioner on the technical ground that her name is not being sponsored through employment exchange or she is not working against a regular sanctioned post.”

5) We find that the aforesaid observations of the Ld. Single Judge are in full consonance with the settled Law in this regard and clearly applicable to the facts of the present case.

6) The Ld. counsel for the Appellants has nevertheless stressed before us that the Respondent cannot be regularized as she has been working on a Part Time Basis only, and also not against any regular sanctioned post. We however, find no substance in either of these contentions. The relevant Regularization Policy dated 29.07.2011 (Annexure P-2) explicitly covers Group 'C' and 'D' employees/workers, appointed/engaged on ad hoc/contract/work charged/daily wages as well as 'Part Time Basis', and are entitled to be regularized in case of

having continued to work for not less than ten years as on 10.04.2006, and to be still in service but not under the cover of the orders of any Court or Tribunal. So clearly, there is no weight in the contention that the Respondent is not entitled to regularize being a 'Part Time' worker.

7) Regarding the purported lack of any 'duly sanctioned' post, we may observe that undisputedly, the Respondent has been continuously working as a Part Time Sweeper without any break for a period exceeding 28 years now. She had completed more than 17 years of such service continuously on the crucial date (10.04.2006) itself. On the face of it, therefore, it is clear that the work performed by her necessarily required a regular post since it is no where the case of the Appellants that her service was ever dispensable at any stage. Hence they cannot take shelter behind their own omission to do the needful regarding seeking sanction for such post from the authorities concerned over this inordinately long period of 28 years.

8) We thus find no reason to interfere with the Order passed by the Ld. Single Judge. The Appeal is therefore, dismissed.

(Surya Kant)
Judge

(Sudip Ahluwalia)
Judge

30.03.2017
AS

Whether speaking/reasoned : ***Yes/No***

Whether Reportable : ***Yes/No***