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

**CWP-14754-2011**

**Date of Decision : October 26, 2018**

Prabhu Dayal Bhatia

.... Petitioner.

Versus

State of Haryana and another.

.... Respondents.

**CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN**

Present Mr. R.K.Malik, Senior Advocate,  
with Mr. Sandeep Kumar Rana, Advocate,  
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana,  
for the respondents.

**SHEKHER DHAWAN, J.**

Present writ petition under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari for quashing order dated 10.11.2010 (Annexure P/5) and for issuance of directions to the respondents to regularize the services of the petitioner with effect from 1.1.1991 with all consequential benefits of pay and other allowances.

2. As per the petitioner, his name was sponsored by Employment Exchange and he was appointed as Lineman (Practical) Instructor on adhoc basis on the basis of his selection made by a duly constituted Committee of respondent No. 2. However, his appointment was against a

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regular sanctioned post and he joined as such on 26.12.1986, vide appointment letter, Annexure P/1. At that time, the following qualification were sent to the Employment Exchange :-

- “i). Matric or its equivalent.
- ii). N.T.C. In Electrical Trade (National Trade Certificate)
- iii). Crafts Training Instructor Course Pass trade from any recognized Institute of Two years Experience in the Trade.”

3. The petitioner fulfilled the requisite qualification and he joined the department. The petitioner completed 55 years of service on 31.07.2004. However, as per his good service record, he was granted three years' extension in service and as such, finally the petitioner retired from service on 31.07.2007 vide order Annexure P/2. The petitioner having rendered more than 20 years of service was not paid any pensionary benefit admissible to a retired employee of the Government.

4. As per the petitioner, on 28.02.1991, a policy was issued by Government of Haryana vide notification, Annexure P/3, providing for regularization of class III employees, who had already put-in two years of service, but the petitioner was not considered for regularization. The petitioner approached this Court by filing Civil Writ Petition No. 9195 of 1993 and vide order dated 14.5.2010 (Annexure P/4), directions were issued to the respondents to consider the case of the petitioner for regularization of his services within six months.

5. Vide order dated 10.11.2010 (Annexure P/5), the claim of the petitioner for regularization of his services was rejected although services

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of similarly placed co-employee, namely, Narain Singh, Lineman (Practical) Instructor were regularized under the policy, who also possessed the same qualification and as such, present writ petition before this Court.

6. In reply, respondent-State has taken the plea that in the light of judgment of Hon'ble Supreme Court in **Secretary, State of Karnataka and others V/s. Uma Devi and others (2006) 4 SCC 1**, all the instructions issued by the State of Haryana in regard to regularization were withdrawn vide order dated 25.4.2007 (Annexure R/1). As per the respondents, the required qualifications for the post, which was held by the petitioner, were as under:-

- "i). Matric with Hindi.
- ii). Diploma in n Electrician.
- iii). C.T.I."
- or
- "i). Matric with Hindi.
- ii). N.A.C. In Lineman. "

7. As per the above, candidate was required to have the above qualifications but the petitioner was not having the qualification of NAC in Lineman, but the petitioner was appointed on the post of Lineman Instructor (Practical) on adhoc basis vide appointment letter dated 17.12.1986 (Annexure P/1) and as such, he was not entitled for regularization. His case is not covered for regularization as per judgment

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of Hon`ble Apex Court in **Uma Devi's case (supra)** and prayed that the present writ petition be dismissed.

8. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that there is no dispute on the basic fact that the appointment of the petitioner was made as Lineman on the basis of his name having been sponsored by the Employment Exchange. At that time, the required qualifications were conveyed to the Employment Exchange and thereafter considering the qualifications possessed by the petitioner, duly constituted Committee recommended his name for appointment and he was issued appointment letter (Annexure P/1) on 17.12.1986. At that time, there was no such stipulation that the petitioner was not having the requisite qualification for the post of Lineman Instructor (Practical) and as such, the case of the petitioner would not fall as per the guidelines laid down by Hon`ble Apex Court in **Uma Devi's case (supra)**.

9. Otherwise also, identical matter was before this Court in **Balwinder Singh and others Vs. State of Haryana and others, CWP No. 2009 of 2016, decided on 04.10.2018**, wherein the petitioners were seeking regularization of their services. This Court while relying upon the judgment from Hon`ble Division Bench of this Court in **Vidya Devi Vs. State of Haryana, 2004(6) SLR 470**, examined this issue and held that the workmen who had completed almost 7 years, their claim could not be declined on the ground that they do not possess essential qualification.

10. In **Desraj Vs. State of Haryana, 2003(4) SCT 264**, this Court

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has held that the Court does not have right to play with the lives of the employees by adopting questionable method. A part time employee who has completed 5 years became entitled for regularization, and they cannot be denied this benefit that they do not possess 3 years continuous service and requisite qualifications.

11. This Court in the case of **Gian Chand and others V/s. Haryana Vidyut Parsaran Nigam Ltd. and others**, CWP-11368-2012 decided on 22.04.2014, has allowed the writ petition whereby a part time Water Carrier-cum-Mali had been working since 1981 and had not been regularized and the writ petition was allowed and he was directed to be regularized. The LPA-1126-2014 against the said judgment was dismissed on 17.07.2014. SLP-31306-2014 filed before Hon`ble Apex Court was also dismissed on 07.01.2015. The case of the part time employees who have completed 10 years of service on 10.04.2006 as per policy dated 29.07.2011 **shall also be considered for regularization.**

12. Further, this issue with regard to regularization has been clarified and adjudicated upon by the Supreme Court as well as Division Bench of this Court, the writ petitions are being disposed of by giving three months time commencing from 01.11.2018 to 01.02.2019 to the different departments of the Haryana State to consider the case of the petitioners as per the facts of each case and pass regularization orders at par with the juniors or similarly situated employees without insisting upon eligibility condition of **qualification, over-age etc.**

13. In the light of above discussion, the present writ petition is

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accepted and the order dated 10.11.2010 (Annexure P/5) stands set-aside and the respondents are directed to regularize the services of the petitioner w.e.f. 1-1-1991 with all consequential benefits thereof within a period of three months from today.

14. The present writ petition stands allowed in above terms.

**(SHEKHER DHAWAN)**  
**JUDGE**

**October 26, 2018.**  
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| Whether speaking/reasoned? : | Yes |
| Whether reportable? :        | Yes |