

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

**CWP No. 19830 of 2013**

**Date of decision : 27.08.2018**

**Poonam Kalia**

**..Petitioner**

**versus**

**Principal Secy to Government of Hry & anr.**

**...Respondents**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Surmukh Singh, Advocate  
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G. Haryana

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**RITU BAHRI, J.**

In the present civil writ petition, the petitioner has sought quashing of impugned orders dated 16.11.2009 and 09.07.2013 (Annexure P-9 and 11 respectively).

Brief facts of the case are that the husband of the petitioner was appointed on 31.07.1995 as Photostat Machine Operator on daily wages as per D.C. Rates and the service of the husband of the petitioner was regularized w.e.f 01.10.2003, vide order dated 20.09.2004. However, the husband of the petitioner expired on 15.02.2005. Thereafter, petitioner gave a representation dated 19.10.2006 and letter dated 19.06.2009 for grant of regular pay scale from the date of initial appointment. However, vide order dated 16.11.2009, the representation dated 19.06.2009 filed by the petitioner was ordered to be filed. The appeal filed by the petitioner against order dated 18.08.2011 was also rejected vide order dated 09.07.2013 by

observing that the Government has filed the representation dated 23.10.2011 and 27.06.2013 of the petitioner. The petitioner is claiming parity of her husband with Suraj Bhan, Zile Singh and Mewa Singh

On notice, a written statement has been filed on behalf of respondent Nos. 1 and 2 and stated that the husband of the petitioner was appointed on 31.07.1995 as Photostat Machine Man on daily wages for a period of 89 days on D.C. Rates. The post was not sanctioned at that time. Later on one post of Class IV was converted into the post of Photostat Machine Man-Class IV, in the pay scale of Rs.2550-3200 by the Government, vide order dated 20.09.2004 (R-1) and the service of the husband of the petitioner was regularized w.e.f 01.10.2003, vide order dated 20.09.2004.

Suraj Bhan, Zile Singh and Mewa Singh were appointed as Clerk on daily wages basis and later on their services were regularized w.e.f 01.04.1993, as per Government Policy and not from their date of initial appointment. Thereafter, Zile Singh filed a suit that his services be regularized w.e.f 18.12.1983 along with consequential benefits before the Hon'ble Civil Court, Rewari. The suit was decided in his favour. The State filed appeal, which was also dismissed. On filing of execution petition, the services of Zile Singh were regularized w.e.f 18.12.1983.

Thus, the petitioner cannot claim parity of her husband with Suraj Bhan, Zile Singh and Mewa Singh, as they were appointed as Clerks against the sanctioned post of Clerks whereas Dheeraj Kumar (husband of the petitioner) was appointed as Photostat Machine Man on daily wages

without any sanctioned posts. His services were regularized in view of

policy dated 01.10.2003 and all relevant benefits had already been given to the petitioner including family pension.

Thereafter, petitioner filed replication to the written statement filed by respondent Nos. 1 and 2 stating therein that the directions were given to Establishment 4<sup>th</sup> Branch to send a proposal to the Government for creation of temporary post of Machine Man for the husband of the petitioner but respondent not initiated any action regarding creation of machine man till September, 2004. The post of husband of the petitioner belongs to class-3 and was lying vacant since 1993-94, as per information received under RTI Act dated 16.10.2015 (Annexure P-12).

A bare perusal of Annexure P-14 colly further shows that the post of Machine Man was in existence and was granted extension from 1994 to 2000 and thus there is no ground made out to deny the husband of the petitioner regular scale from the date of his initial appointment, as given to Suraj Bhan, Zile Singh and Mewa Singh, vide order dated 15.05.2009. It is sad to say that the respondents had dealt the matter of widow of late Dheeraj Kumar i.e present petitioner in a very careless manner, as she has to approach this Court, after availing remedy. The impugned orders have been passed without going through sanction orders (P-14 colly). The petitioner's husband was appointed on 31.07.1995 as Photostat Machine Man on daily wages for a period of 89 days on D.C. Rates. As per information dated 16.10.2015 supplied by respondent No. 2, the post of class III was vacant since 1994 and as per Appendix A (Rules-3) of Gaz March 10, 1998 one post of Machine Man Class III post was sanctioned in the grade pay of Rs.950-1500 (Annexure P-13). As per memo of renewal of temporary posts

issued by respondent No. 1 to respondent No. 2 for the year 1994-95 to 1999-2000 (year-wise), one post of machine man was available (Annexure P-14). In the appointment letter of the husband of the petitioner, it was mentioned that the case be sent to Government for creation of one post of Machine Man but for 09 years, no action was taken for creation of the above post by respondent No. 2. Further the stand of the respondent that Suraj Bhan was appointed against sanctioned post also falsified, as Suraj Bhan was appointed on daily wages as per DC rate on 15.02.1984 and posted in Government Central Workshop, Haryana, Chandigarh. Whereas, after more than two years, Service Engineers, Government Central Workshop Haryana Chandigarh intimated respondent No. 2 vide letter dated 03.04.1986 (Annexure P-15) to issue appointment letter to Suraj Bhan to enable the office to release the pay. Suraj Bhan was appointed on daily wages as per D.C. Rates but the salary was drawn against the vacant post of Clerk, as per information given under RTI Act on 25.05.2017 (Annexure P-16)

In view of the discussion made above, the petition is allowed and orders dated 16.11.2009 and 09.07.2013 (Annexure P-9 and 11 respectively) are set aside. Respondents are directed to fix the pay of the husband of the petitioner w.e.f the date of his initial appointment along with 8% interest, as granted in the case of Suraj Bhan, Zile Singh and Mewa Singh, vide Annexure P-6.

A cost of Rs.25,000/- is also imposed upon State of Haryana which shall be deposited within a period of two weeks, before the Registrar of this Court and this amount shall be utilised for constructing the house of Ms. Balwant Kaur (widow) by the respondent-State of Punjab through

P.W.D (B&R), Mohali, as per orders passed by this Court on **24.08.2018 in CRM-M-39750-2016 (O&M) titled as Jugraj Singh v. State of Punjab.**

**27.08.2018**  
G Arora

**(RITU BAHRI)**  
**JUDGE**

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|----------------------------------|------------|
| <i>Whether speaking/reasoned</i> | <i>Yes</i> |
| <i>Whether reportable</i>        | <i>No</i>  |