

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

CWP No. 18610 of 2015 (O&M)

Date of decision: 18.01.2018

Binder Kaur

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Ashish Grover, Advocate for the petitioner.

Mr. Suvir Sheokand, Addl. A.G., Punjab.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioner seeks quashing of the impugned order dated 31.03.2015 (Annexure P-8), passed by respondent No.2, whereby the claim of the petitioner for regularization in service has been declined.

It is contended that the petitioner was appointed as sweeper on contract basis in the year 1998 and was posted in Police Station City Kotkapura and she was being paid fixed salary. The petitioner was transferred to Police Station Sadar Kotkapura by respondent No.3, vide letter dated 16.07.2005. In pursuance of transfer orders, the petitioner joined Police Station Sadar Kotkapura on 23.07.2005 and rapat No.45 was also recorded to this effect. Till date, the petitioner has been continuously working in the said Police Station since her transfer.

Learned counsel for the petitioner submits that the petitioner who was being paid fixed salary had approached the respondent No.3 for getting her services regularized, vide representation (Annexure P-4) but in vain. Learned counsel refers to the instructions dated 18.03.2011, issued by the Government of Punjab (Annexure P-5), to assert that as per instructions, the minimum service of employees working on contract basis is three years and for daily wager, the tenure is 10 years. Learned counsel further refers to Annexure P-6, the decision dated 28.10.2014 rendered in CWP-1933-2014, by this Court to contend that under similar circumstances, similarly placed petitioner Kanta Rani (in CWP-1933-2014), who was working as part time peon cum sweeper had approached this Court for regularization of service and the same has been allowed by this Court. The petitioner has been working as a whole time employee for the last 17 years and her work and conduct is satisfactory during her entire service. The claim of the petitioner for regularization of service was forwarded by respondent No.3 to respondent No.2, however, the same was declined.

On the other hand, the learned State counsel submits that the petitioner was not appointed on permanent basis. He was hired only on temporary basis and the remuneration @ Rs.3000/- is being paid to the petitioner from the special welfare and sports fund deducted from the salary of police employees and as such no salary has been withdrawn from the treasury. The petitioner is working for a few hours in morning time and not on whole time basis. Similar to the petitioner, the services of other sweepers in different police stations were availed for a few hours.

He further states that after due consideration on the representation of the petitioner, the same has been declined as the same has not been covered under the instructions issued by the Government of Punjab from time to time.

Heard, learned counsel for the parties and perused the record.

Indisputably, the petitioner who working on contract basis in Police Station City Kotkapura was transferred to Police Station Sadar, Kotkapura, vide DDR No.45. As per assertion of the petitioner of the petitioner, he was working since 1998 in Police Station City Kotkapura and as per reply filed on behalf of the State, it has been mentioned that the record of roznamcha for the year 2005 has been weeded out vide order No.9064-67 dated 13.06.2011 and 27.07.2011, though, it has not come on record that the petitioner has been working since 1998, however, a bare perusal of Annexure P-1, issued by Chief Officer, Police Station City Kotkapura shows that the petitioner has worked as Sweeper in Police Station City Kotkapura in the month of October, 2004. The petitioner has been transferred from the police station to another on the basis of written orders, vide rapat No.45, therefore, the stand of the State, that the petitioner was hired on temporary basis and no appointment order was issued by any authority and the petitioner worked for a few hours in morning, is not tenable. The State has failed to rebut the claim of the petitioner that he had worked since 1998 and he worked continuously during her service without any break. The petitioner worked as a sweeper for a fairly long spell which means that there was regular need for her

services. In a situation like the petitioner, the onus is upon the State to examine the feasibility of regularization. From the material available on record, it establish that the petitioner worked continuously as sweeper since 1998 and thus, she shall be deemed to be on the roll of the establishment for all intents and purposes. Nothing has come on record that the work and conduct of the petitioner was not satisfactory, therefore, in the face of the above set of circumstances, the petitioner cannot be deprived of relief sought in the present petition.

Accordingly, the present petition is allowed. The respondents are directed to regularize the services of the petitioner from the date similarly placed employee Kanta Rani, petitioner in CWP-1933-2014 was allowed the benefit of regularization and release all the consequential benefits from the date of her regularization, within a period of four months from the date of receipt of a certified copy of this order.

18.01.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No