

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

Sr. No.217

Civil Writ Petition No.19047 of 2015
DECIDED ON: August 27, 2018

AARTI

..PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Ram Niwas Sharma, Advocate,
for the petitioner.

Mr. Harish Nain, Assistant Advocate General, Haryana.

JASPAL SINGH, J. (ORAL)

By virtue of the instant civil writ petition, preferred under Articles 226/227 of the Constitution of India, petitioner has sought an issuance of a writ especially in the nature of Mandamus directing the respondents to allow deemed date of regularization of the services of her husband w.e.f. 31.01.1996 under the regularization policies dated 07.03.1996 and 18.03.1996 (P-3 & P-4) with all consequential benefits as well as to allow Monthly Financial Assistance to her under Financial Assistance Rules, 2006 (P-6) along with all benefits admissible under the Ex-gratia Scheme/Rules as her husband breathed his last on 05.12.2014 while in service.

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2. The contention of learned counsel for the petitioner is that petitioner's husband was appointed by the respondent-department on daily wages on DC rates in the month of July, 1988 and he worked as such till his demise i.e. 05.12.2014. He was appointed against sanctioned post. The services of Group-D/Class-IV employees are governed by the Service Rules called as Haryana Panchayats Department (Group D) Service Rules, 1993 (hereinafter referred as Service Rules, 1993).

3. Prior to notification of the Service Rules, 1993, the appointments were made by the competent authorities by adopting proper procedure in accordance with instructions and directions prevailing at that time. The husband of the petitioner was also appointed in accordance with procedure, instructions and rules of the Government and continued in service till he breathed his last on 05.12.2014. Since, services of the husband of the petitioner were not regularized, petitioner has not been paid anything under the ex-gratia policies issued by the State Government. However, subsequently, the State Government issued regularization policies dated 07.03.1996 and 18.03.1996 (P-3 & P-4 respectively). But the benefit of those policies were also not granted to the husband of the petitioner simply on the ground that services of her husband are not covered thereunder.

4. Learned counsel for the petitioner has contended that husband of the petitioner joined his services in July, 1988 as daily wager on DC rates and remained worked as such till his demise on 05.12.2014. Since, he was appointed against sanctioned post as is clear from letter dated 04.07.2014 (P-1), in pursuance of the policies issued by the State Government subsequently dated 07.03.1996 and 18.03.1996 (P-3 & P-4), services of her

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husband should have been regularized but regularization of his services has been declined by holding that the case of the petitioner's husband being a part time employee is not covered under the aforesaid policies.

5. On the other hand, learned State counsel has abundantly submitted that neither the husband of the petitioner was appointed against sanctioned post nor he was daily wager. The services of her husband was engaged as part time Sweeper in the year 1995-1996 as is evident from the order dated 02.06.1995 (R-1/T) passed by the Deputy Commissioner, Jind. As far as the letter dated 04.07.2014 (P-1) is concerned, the same is not based upon any documentary evidence and as such, the case of her husband is not covered under the aforesaid policies dated 07.03.1996 and 18.03.1996 (P-3 & P-4).

6. This Court has weighed the rival contentions of the learned counsel for the parties and peruse the records available, there is no cogent or convincing evidence brought on record by the petitioner that her husband namely Late Sh. Suresh Kumar was working as a daily wager or was appointed in the month of July, 1988 against a sanctioned post. The letter dated 04.07.2014 (P-1) is not based upon any service record. The case of part time Sweeper is not covered under the aforesaid policies dated 07.03.1996 and 18.03.1996 (P-3 & P-4) because a word part time employee/Sweeper does not find mention in either of the aforesaid policies which deal with regularization of services of Class-III and Class IV employees or any other instructions. A scrutiny of the aforesaid policies makes it crystal clear that it is with regard to regularization of work charge/casual/daily wages

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employees. Since her husband was not covered under the aforesaid policies, the regularization of services of her husband has rightly been declined by the respondents.

7. In the light of what has been discussed above, this Court does not find any merit in the instant petition. Accordingly, it stands dismissed. However, no order as to costs.

August 27, 2018
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No