

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

Date of decision: 19.01.2018

CWP No.23642 of 2015

Laxmi Devi

...Petitioner

Vs.

Haryana Vidyut Parsaran Nigam Ltd. & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ashwani Talwar, Advocate, for the petitioner.

Mr. R.S.Longia, Advocate, for respondents No.1 to 3.

RAJIV NARAIN RAINA, J. (ORAL)

1. Two employees, namely, Joginder son of Ram Dhari and Uday Singh son of Bhanna Ram were appointed as Part Time Workers in erstwhile Haryana State Electricity Board (for short 'the Board') and on unbundling of the Board and with the creation of various Nigams-power utilities, their services erstwhile employees of the Board came to be distributed in one or the other Nigam. In the erstwhile seniority of the Board, Joginder and Uday Singh were employed later than the petitioner on the same post. Their dates of engagement are 01.05.1998 and 24.03.2000 respectively in the Board and what is known today Dakshin Haryana Bijli Vitran Nigam. The petitioner's date of appointment in the Board was 01.07.1996.

2. Earlier, she approached this Court as a co-petitioner in CWP No.11368 of 2012 in case titled 'Gian Chand & others Vs. Haryana Vidyut Parsaran Nigam Ltd. & others' decided on 22.04.2014 by the learned Single

Judge allowing the petition and directing the respondents to consider the case of the petitioners for regularization on regular sanctioned posts within three months from the date of receipt of certified copy of the order. The Bench struck down Condition No. (III) of the policy dated 9.07.2011 of the Government of Haryana adopted by the Nigam. Condition No. (III) provided that entry in service as part-time worker should have been through employment exchange. Such condition read as follows:

“(III) That the concerned employee should have been appointed only after either his name has been sponsored by the Employment Exchange or has been appointed/engaged on the basis of recommendations made by the Department Selection Committee by inviting applications through advertisement against duly sanctioned vacant post.”

3. Letters Patent Appeal carried by the Nigam to the Division Bench failed and so did the Special Leave Petition before the Supreme Court. The orders have attained finality. In the consideration exercise under Court orders, the Nigam has passed the impugned order in which the case of the petitioner has been rejected for the reason that she had not completed 10 years of service as on 10.04.2006 [the date of pronouncement of the judgment by the Supreme Court in Secretary, State of Karnataka & others Vs. Umadevi & others, (2006) 4 SCC 1 [CB] (Umadevi-3)].

4. The petitioner is short of 10 years by 2 months and 20 days. She has continued to work thereafter for 12 years. Her total length of service in the Board and Nigam is 21½ years as on date. It would appear unfair to dismiss the claim of the petitioner on a sheer technicality of the law. To tide

over this period of 2 months and 20 days, Mr. Talwar has sufficient armoury at his disposal by way of judgments of this Court other on the point of shortfall other than in Gian Chand's case, in which cases relief has been granted to persons, who were marginally short of 10 years service including rulings in CWP No.11209 of 2015 titled 'Surinder Pal Vs. HVPNL & others' (decided on 19.05.2017) against which order LPA No.1570 of 2017 has been dismissed on 25.08.2017.

5. The next case is Chhabi Lal & others Vs. The State of Haryana & others (CWP No.2326 of 2011 decided on 20.05.2015), where petitioners were appointed to part-time service during 1987-1997 to work in the Board/Nigam. This Court was pleased to allow the petition and set aside the orders denying relief to the petitioners and directed that their services be regularized. The learned Single Judge took into consideration the period of continuous service of the petitioners between 18 to 27 years as an additional ground to grant relief. It may be mentioned that in Chhabi Lal's case, the services of the petitioners were terminated and they returned on the intervention of the awards passed by the Labour Courts.

6. Mr. Talwar has produced the photocopy of the order passed in Chabbi Lal's case in the aftermath of the orders in the writ petition. Chabbi Lal has been appointed as Peon on regular basis vide order dated 30.10.2017, a copy of which is retained on record as Mark-A. Besides, Uday Singh, who joined in 2000 has also been regularized in service and so is Joginder in DHBVN vide orders dated 30.10.2017.

7. In view of this spate of favourable orders, the conclusion is

irresistible that the petitioner indeed would be entitled to parity of treatment with cases of the others cited by Mr. Talwar to prevent continued discrimination. The mandate of Article 14 and the rule of equal protection by administrative precedent are things which compel this Court to treat all citizens similarly situated in the same fashion.

8.. Accordingly, this petition is allowed and the impugned order is set aside. The respondent – Nigam is directed to regularize the services of the petitioner with all consequential benefits within a period of two months from the date of receipt of certified copy of this order. Arrears of salary be calculated accordingly and paid to the petitioner within three months thereafter. Though interest is not levied on the amount of arrears, but a cost of ₹20,000/- is imposed on the respondent – Nigam to be paid to the petitioner along with the arrears for compelling her to come to this Court on a matter, which could have been settled in the Nigam itself.

[RAJIV NARAIN RAINA]
JUDGE

19.01.2018

Vimal/manju

Whether speaking/reasoned: Yes

Whether Reportable: No