

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

**CWP-26410-2014 (O&M)
Date of decision : 19.12.2018**

Rakesh Kumar and others

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Mukand Gupta, Advocate for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

JITENDRA CHAUHAN, J.

By way of the instant writ petition filed under Articles 226/227 of the Constitution of India, the petitioners, *inter alia*, seek quashing of the order dated 07.11.2014 (Annexure P-18), whereby, their claim for regularization of their services was rejected and for issuance of a direction to the respondents to regularize the services of the petitioners in view of the Policies dated 15.12.2006 and 18.03.2011 (Annexures P-3 and P-4, respectively), along with all consequential benefits.

It is contended that the petitioners joined as Class IV employees in the office of respondent No.2 from 1993 onwards, initially on daily-wage basis for 89 days and were being paid salary at DC rates. There services were extended from time to time and have been continuing to work with the respondents without any break. It is further submitted that in

pursuance of the judgment passed by Hon'ble the Supreme Court in ***State of Karnataka Vs. Uma Devi, 2006 (3) SLR(1)***, the Government of Punjab issued policy dated 15.12.2006 (Annexure P-3) to regularize the services of Class IV employees who had completed ten years' service as on 10.04.2006. Similar policy was issued on 18.03.2011 (Annexure P-4) for regularisation of those employees who had completed three years' service on contract basis. Thereafter, another notification dated 17.11.2011 (Annexure P-5) was issued for regularization of daily wage/work charged/ contractual employees of different Departments, Boards, Corporations, Commissions and Cooperative Institutions etc. It is the grouse of the petitioners that even after serving for more than 20-21 years and their cases being covered under various policies of the Government issued from time to time, the services of the petitioners have not been regularized. It is submitted that two similarly placed employees, namely, Lalita and Mandeep Singh, who were appointed along with the petitioners on daily wages in the years 1996-1997, approached this Court by way of filing CWP-7096-2002. On 06.02.2012 (Annexure P-14), when the matter came up for final hearing before this Court, the respondents informed that the services of both the employees had been regularized in view of the policy (Annexure P-3). The present petitioners also approached this Court by filing CWP-14241-2014, which was disposed of by this Court vide judgment dated 23.07.2014 (Annexure P-16), with a direction to the respondents to redress the grievances of the petitioners by passing appropriate orders within four months. However, vide impugned order dated 07.11.2014, the claim of petitioner Nos.3 and 5 was rejected by noticing that though, the petitioners have completed 10

years of services, but their services could not be regularized being part-time workers. The claim of petitioner Nos.1, 2, 4 and 6 has been rejected on the ground that policy dated 18.03.2011 (Annexure P-4) is not applicable to the respondent-Department.

On the other hand, learned State counsel has opposed the instant petition on the ground that the case of the petitioners is not covered by either of the policies (Annexure P-3 and P-4). Petitioner Nos.3 and 5 were appointed on part-time basis, therefore, their case for regularization could not be considered. Similarly, the respondent-Department of Excise and Taxation was not covered under the policy (Annexure P-4), therefore, the benefit could not be extended to the remaining petitioners.

Heard.

Admittedly, the petitioners have been working with the respondent-Department for the last 20-21 years. In view of the directions issued by Hon'ble the Supreme Court in *Uma Devi's case (supra)*, the Punjab Government issued instructions dated 15.12.2006 (Annexure P-3) and 18.03.2011 (Annexure P-4), for regularization of the services of those employees whose appointment was on work-charge, daily wage, ad hoc or temporary basis. It is conceded position that petitioner Nos.3 and 5 had been appointed on part-time basis, therefore, the benefit of the policy (Annexure P-3) could not be extended to them. However, the benefit of the policy (Annexure P-4) has wrongly been denied to the petitioners as all of them had completed three years' continuous service. The plea taken by the respondents in denying the benefit to the petitioners that the Department of Excise and Taxation is not covered under the policy is without any force, as

has already been held by this Court in ***Mahavir Singh Vs. State of Punjab and others***, rendered in CWP-24735-2015, decided on 19.04.2017, by holding thus:-

“8. The Government of Punjab took a one time policy decision dated 18.03.2011 for regularization of the services of the employees who have completed three years service. This policy covered the daily wagers, work-charged, contractual employees working on permanent posts appointed after fulfilling eligibility criteria as per procedure.

The only defence raised herein is that the Government in its policy dated 18.03.2011 has made it applicable to certain departments and the same is not applicable to employees working in the Sports Department. No special reason has been given as to why the Sports Department has been excluded from the purview of the policy which appear to be restricted to departments of Forest, Health Technical Education, Urban Local Bodies.

*9. A Single Bench of this court in Civil Writ Petition No. 24337 of 2012 decided on 17.08.2015 titled **Shri Pal And Others Versus State Of Punjab And Others** has held that the exclusion of employees of certain departments from being entitled to the benefits of the regularization policy of 2011 is unfair discriminatory and violative of Article 14 of the Constitution of India. In deed, there is no such reasonable criteria forthcoming as to why this pick and choose*

policy has been adopted. Once a decision is taken to extend the benefit of regularization to employees of certain departments, other have to be treated equally.”

In view of the fact that the petitioners fulfil the criteria of regularization in terms of policy dated 18.03.2011 (Annexure P-4) and the law laid down in Mahavir Singh's case (supra), the present petition is allowed and the respondents are directed to regularize the services of the petitioners in view of policy (Annexure P-4). Let the exercise be carried out within a period of two months from the date of receipt of a certified copy of this judgment and arrears of pay, etc. admissible to the petitioners consequent to regularization, be released to them limited to a period to 38 months from the date of filing the instant petition.

Allowed in the above terms.

19.12.2018
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No