

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

CWP No.2596 of 2015 (O&M)

Date of Decision: 10.09.2018

Bimla Devi

...Petitioner

VS.

CAT, Chd. & Ors.

... Respondents

**Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Sudip Ahluwalia**

Present: Mr. Pradeep Sharma, Advocate for the petitioner

Mr. Namit Kumar, Advocate for respondents No.2 to 4

SURYA KANT J. (Oral)

(1) The petitioner joined the respondent-Postal Department as Sweeper on fixed salary in the year 1979. She continued to serve as such for 32 years before she approached the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal') seeking a direction to regularize her services and to grant her regular pay scale. The Tribunal has declined the petitioner's claim vide impugned order dated 19.08.2013 (P3) on the ground that no Rule/Instruction/policy has been cited whereunder a part-time employee can be regularized. The aggrieved petitioner has approached this Court.

(2) It is not disputed by learned counsel for the parties that identical controversy pertaining to part-time employees of the respondent-Department came up for consideration and this Court vide order dated 02.03.2015 passed in **CWP No.9167-CAT of 2007 (Union of India & Ors. vs. Central Administrative Tribunal, Chandigarh Bench and others)** and other connected matters allowed the same in following terms:-

“[20] Surely, the respondents cannot be made regular in the absence of sanctioned posts, but then what is the public purpose sought to be achieved through the policy dated 30.06.2014? The Executive who has authored the policy is also competent to create or sanction the posts. Depending upon the total expenditure now being incurred on the retention of respondents, we have no reason to doubt that the petitioners can rationalize their resources and sanction some regular posts every year so that the respondents can be adjusted on regular basis without any unbearable additional financial burden on the Department, but before they leave the department on attaining the age of superannuation.

[21] The petitioners might have incurred huge expenditure in defending multiple litigation initiated by contractual employees who are now a diminishing cadre. This is for the petitioners to take a pragmatic view and divert this unproductive expenditure towards sanctioning the posts in a phased manner for adjusting the respondents.

[22] We, thus, direct the petitioner-authorities to revisit the whole issue in its right perspective and complete the exercise to re-formulate their policy and take a decision to sanction the posts in phased manner within a specified time-schedule. Let such a decision be taken within a period of six months from the date of receiving a certified copy of this order.

[23] Till the exercise as directed above, is undertaken, the respondents shall continue in service with their current status but those of them who have completed 20 years as part-time daily wagers, shall be granted 'minimum' basic pay of Group 'D' post(s) w.e.f. 1.4.2015 and/or the date of completion of 20 years contractual service, whichever is later.”

(3) Union of India through the respondent-Department has challenged the above-cited judgment of this Court in SLP (Civil) No.13072-13073 of 2016 in which the Hon'ble Supreme Court passed the following order on 22.07.2016:-

“On hearing Mr. Ranjit Kumar, learned Solicitor General appearing on behalf of the petitioners, we are not inclined to interfere with the directions of the High Court in paragraph 23 for granting minimum basic pay to Group ‘D’ posts from a particular date to those who have completed 20 years of part-time daily wage service. The petitioners should carry out that direction.

Insofar as the directions of the High Court to re-visit the whole issue of sanction of posts etc. and re-formulation of policy are concerned, there appears some merits in the submission that the High Court should not have interfered in policy matters.

Issue notice on the special leave petition in that respect as well as on the application for condonation of delay.

The direction contained in paragraph 22 of the impugned order shall remain stayed until further orders.”

(4) It may thus be seen that the direction as contained in para [23] of our order dated 02.03.2015 directing the respondents to grant ‘minimum’ basic pay of Group ‘D’ post(s) to employees like the petitioner on completion of 20 years contractual service has been approved by the Hon'ble Supreme Court whereas the directions contained in para [22] of the order to re-visit the whole issue and re-formulate the policy regarding sanctioning of posts and consequential regularization of services, has been stayed.

(5) In the instant writ petition, we are further informed that the petitioner has been relieved from service w.e.f. 31.07.2015 on attaining the age of superannuation.

(6) The petitioner thus would be entitled to 'minimum' basic pay from the date she completed 20 years of service till she was relieved on 31.07.2015 in terms of para 22 of the cited judgment. Let such arrears be paid to her within three months from the date of receipt of certified copy of this order.

(7) As regard to the petitioner's claim for regularization of her service, no direction can be issued, at this stage, except to observe that the petitioner shall also be entitled to benefit in this regard, if any, granted by the Hon'ble Supreme Court in the pending case.

(8) The writ petition stands disposed of in above terms.

(Surya Kant)
Judge

10.09.2018
vishal shonkar

(Sudip Ahluwalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No