

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.212

CWP-6743-2016

Date of decision : 22.05.2018

Kusum Lala

..... Petitioner

VERSUS

Chaudhary Charan Singh Haryana Agricultural University, Hisar

... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Ajay Chaudhary, Advocate, for the petitioner.

Ms. Anupama Sharma, Advocate, for respondent-University.

SUDHIR MITTAL, J. (Oral)

The petitioner was appointed as Steno-typist on daily-wage basis w.e.f. 21.06.1994. She was discharged on 12.06.1995. The order of discharge was challenged by the petitioner before the Labour Court and vide a compromise Award dated 26.05.2000, the petitioner was ordered to be reinstated in service with continuity of service. The petitioner was reinstated in service. Meanwhile, the petitioner secured the qualification of Graduation on 24.07.1997. The petitioner sought regularization in terms of policy dated 01.10.2003 (Annexure P-5) amended vide notification dated 10.02.2004 (Annexure P-6). The regularization was also sought on the ground of parity as similarly situated employees as the petitioner had been regularized under the said policy subject to condition of passing of type test. Vide legal opinion dated 12.05.2015 (Annexure P-9), it was opined that the services of the petitioner did not deserve to be regularized forcing her to file the present writ petition.

2. The respondent-University has filed a detailed reply.

3. Learned counsel for the petitioner submits that as per the amended policy, a daily-wage employee occupying Group-C post, is entitled to be regularized in case he/she possesses the requisite qualification for the said post as on 30.09.2003. In this case, the petitioner became a graduate on 24.07.1997 and therefore, as on 30.09.2003, she possessed the requisite qualification for the post of Steno-typist.

4. Learned counsel for the respondent-University however, opposes the prayer of the petitioner on the ground that the petitioner was not appointed against the vacant post. She was appointed against a leave vacancy and her services, were terminated upon the regular incumbent joining the service. However, it is not disputed by her that as on 30.09.2003, the requisite qualification for appointment as Steno-typist was Graduation and that the petitioner possessed the said qualification.

5. Vide amendment dated 10.02.2004, condition No.2 of the policy dated 01.10.2003 (Annexure P-5), was modified as under:-

“for the words “fulfill the requisite qualification and were originally appointed against vacant post”, the words figures and sign “fulfill the requisite qualifications on the date of engagement or on 30.09.2003”, shall be substitute;’

6. It is thus, obvious that the only requirement of the amended policy was fulfillment of the requisite qualification on 30.09.2003. There was no requirement of original appointment being against a vacant post. Thus, the argument of learned counsel for the respondent-University cannot be accepted.

7. In view of the above, the writ petition is allowed and the legal opinion dated 12.05.2015 (Annexure P-9) is quashed. It is held that the petitioner was eligible for regularization under the amended policy dated 01.10.2003 (Annexure P-5) subject to the condition of her passing the type test. The respondent-University is directed to consider the claim of the petitioner afresh within a period of four weeks from the date of receipt of a certified copy of this order. In case her claim is accepted, she would be entitled to all consequential benefits within a further period of four weeks, failing which she will be entitled to interest @ Rs.6/- per annum from the date the payment became due till the date of actual payment.

(SUDHIR MITTAL)
JUDGE

22.05.2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No