

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 7533 of 2014

Date of Decision: May 16, 2018

Bhateri Devi and another

.....Petitioners

versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present:- Mr. Sandeep Singal, Advocate
for the petitioners

Mr. Abhilaksh Grover, Advocate
for the respondents

Sudhir Mittal, J. (Oral)

The petitioners pray for issuance of a direction to the respondents to regularize their services against a suitable "Group D" post with effect from the date of regularization of junior persons alongwith all consequential benefits that flows therefrom.

2. The petitioners were appointed in the Haryana State Electricity Board against Group D posts on daily wages during the period 1985 to 1993. Their services were terminated on different dates between 2001 to 2002. Both of them approached the Labour Court and awards dated 04.08.2004 and 21.01.2013 were passed, directing re-instatement in service along with continuity in service and 50% back wages from the date of demand notice. Thereafter, the petitioners requested respondents to consider their case for regularization in terms of the policy dated 08.08.2003 (Annexure P-3), but their claim has been rejected on the ground that they were not in service on 08.08.2003. The services of the persons junior to the petitioners were regularized ignoring the claim of the petitioners. Hence, the writ petition.

1 to 3.

4. The contention of learned counsel for the petitioners is that the petitioners were entitled to be considered for regularization in terms of policy dated 08.08.2003, but they could not be considered as their services were terminated. By awards of the labour Court, they were re-instated. Demand for regularization was again raised but the same has been illegally rejected, even though the persons identically situated as the petitioners, have been granted benefit of Policy dated 08.08.2003. Thus, Article 14 of the Constitution of India, has been violated and services of the petitioners are also required to be regularized.

5. Learned State counsel supports the order of denial of regularization in terms of Policy dated 08.08.2003. His submission is that the said policy was withdrawn pursuant to the judgment of Hon'ble the Supreme Court of India in **State of Karnataka Vs. Uma Devi, 2006 (4) S.C.C-1** and thus, the said policy was not in force on the date, the petitioners made representations. Consequently, the impugned order is justified.

6. I have heard learned counsel for the parties and am of the view that the writ petition deserves to be allowed. When the policy dated 08.08.2003, was in force, the petitioners could not have been considered as their services stood terminated. Thereafter, the Labour Court ordered their re-instatement and the awards have been complied with. Services of junior persons to the petitioners were regularized by the respondent-Nigam w.e.f. 08.08.2003 as per the policy, thus, denial of the same relief to the petitioners would amount to violation of Article 14 of the Constitution of India. It has been so held in Judgment of Hon'ble the Supreme Court of India in case **Hari Nandan Prasad and another Vs. Employer I/R to Mangmt. Of FCI and another, 2014(2)SCC 190.**

7. Learned State counsel has also argued that the petitioners are not covered by the policy dated 08.08.2003, but has been unable to substantiate the

same. A perusal of service details of the persons junior to the peitioners, who were regularized as per the policy *ibid*, shows that there is no merit in the argument of learned State counsel.

8. Thus, the writ petition is allowed. The petitioners are directed to be regularized w.e.f. 08.08.2003 alongwith the consequential benefits within a period of two months from the date of receipt of a certified copy of this order.

May 16, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No