

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 932 of 2015

Date of Decision: 08.02.2018

Prithi Nath

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

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

Ms. Shruti Jain Goyal, AAG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

The petitioner was appointed to service in the Education Department, Haryana on 06.12.1993 as an ad hoc Lecturer in College cadre. Her services were regularized in the year 2012 vide order dated 26.01.2012. She claimed that her regularization should date-back to 1996 in terms of the policy dated 07.03.1996. She filed the present writ petition claiming antedated regularization when it was not granted by the department. While the petition was pending, the department on its own granted the benefit and passed an order regularizing the services of the petitioner from 31.01.1996 vide order dated 15.01.2016. This was when Mr. Chaudhary moved application bearing CM No.15865-CWP of 2015 producing the decision of the department, whereby it had on its own regularized the services of one Mrs. Inderjit Kaur vide order dated 20.10.2015 and was granted the consequential benefits as well including

arrears of selection grade etc.

Since the petitioner had been regularized, the petition was ordered to stand disposed of as having rendered infructuous. Thereafter, petitioner filed review application i.e. RA-CW No.147 of 2016 for recall of the order dated 21.01.2016, as consequential benefits had not been granted to her. On 12.08.2016, following order was passed in the review application:

“Learned State counsel has produced a communication from the office of the Director Higher Education, Haryana, Panchkula, which is to the effect that the applicant-petitioner has been placed in the senior scale w.e.f. 26.07.2000 instead of 25.01.2012 and for awarding her senior scale appropriate directions have been issued to fix her pay accordingly after getting it verified from the Audit Cell of the Directorate. With regard to awarding of selection grade, the matter has been referred for approval of Screening Committee and formal orders in this regard would be passed on grant of approval by the Chairman Screening Committee.

A copy of the communication has been handed over to the learned counsel for the applicant-petitioner and he expresses his satisfaction so far as the grant of senior scale is concerned. However, he submits that directions be issued to the State with regard to placing of the petitioner in the selection grade and consequent pay fixation etc. in a time bound

manner. On this, learned State counsel assures the Court that the needful would be done within two months from today.

The final orders to be passed with regard to placing the petitioner in the selection grade and consequential pay fixation be produced on or before the adjourned date.”

That review application was allowed vide order dated 21.08.2017 and the writ petition was restored to be decided on its merits.

The petitioner claims parity of treatment with Mrs Inderjit Kaur. In this request, she also relies on the decision of this Court in Dr. (Mrs.) Manju Ahluwalia Vs. State of Haryana and others in CWP No. 2964 of 2015 and Mrs. Shalini Tuli Vs. State of Haryana in CWP No. 1701 of 2015, both decided by a common order dated 27.10.2016. In Dr. Manju's case (Supra), there was a dispute with regard to break in service which was condoned by this Court and the relief granted subject to the interim orders and outcome of the CWP No. 17206 of 2014 and connected cases under the main case titled as Yogesh Tyagi and another Vs. State of Haryana and others. The interim order dated 02.09.2016 passed in Yogesh Tyagi's case is reproduced below:

“Having heard learned counsel for the parties, prima facie we are satisfied that the impugned policy runs contrary to the mandate of the Constitutional Bench judgment in the “Secretary, State of Karnataka and others Vs. Umadevi and others, (2006) 4 SCC 1”. Hence

further regularization of services under the said policy shall remain stayed till the final decision. The regularization orders, if any, passed earlier shall be subject to final outcome of the writ petition”

In Dr. (Mrs.) Manju Ahluwalia's case, the relief was granted in the light of Article 14 of the Constitution to remove and prevent hostile and invidious discrimination amongst a homogenous class of persons who are grouped together for equal treatment. Consequently, and as a result, both the petitions were allowed with the directions to the department to consider antedating the dates of regularization of petitioners with all consequential benefits at par with their colleagues who had been granted the benefit and were lower in merit positions in the selection process in their respective subjects. This was to bring harmony in service in accordance with the principles of justice, equity and good conscience. The Court is informed by the learned Law Officer that the State has not filed an appeal against the order till today. Be that as it may, since the petitioner had been regularized by the department on its own w.e.f. 31.01.1996 vide order dated 15.01.2016, the petitioner is entitled to all consequential benefits including arrears of senior scale, arrears of selection grade, fixation of pay etc., subject to final result of the bunch of cases pending before the Division Bench in Yogesh Tyagi's case (Supra).

It may be noticed that regularization has been granted by the State Government itself without any intervention in this case. Ms. Shruti

Jain Goyal's argument is recorded that even in this case the orders of regularization have been passed under the 16/18.06.2014 policy which revives earlier policies which had become defunct due to withdrawal of those policies. Obviously, this issue will remain subject to the final outcome in Yogesh Tyagi's case (*supra*) and no final opinion is expressed on this score since the present writ has been allowed on the touchstone of Article 14 of the Constitution as persons have secured the benefit claimed in this petition and who are juniors in service to the petitioner.

Accordingly and as a result of the discussion above, the petition is allowed in the above terms. It is expected that the cases of similarly placed persons will be treated similarly and the monetary benefits will be handed over to the employee/petitioner within six months from the date of the receipt of the certified copy of the order.

(RAJIV NARAIN RAINA)
JUDGE

08.02.2018

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Whether speaking/reasoned : *Yes*

Whether reportable : *No*