

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 9825 of 2015 (O&M)

Date of Decision: 01.02.2018

Madan Lal and others

...Petitioners

Vs.

Haryana Vidyut Prasaran Nigam Limited and others

...Respondents

2. CWP No. 13132 of 2015 (O&M)

Rajesh Kumar and others

...Petitioners

Vs.

Haryana Vidyut Prasaran Nigam Limited and others

...Respondents

3. CWP No. 11141 of 2015 (O&M)

Bhag Singh and others

...Petitioners

Vs.

Haryana Vidyut Prasaran Nigam Limited and others

...Respondents

4. CWP No. 11018 of 2015 (O&M)

Gurmeet Kaur

...Petitioner

Vs.

Uttar Haryana Bijli Prasaran Nigam Limited and others

...Respondents

5. CWP No. 11024 of 2015 (O&M)

Sanjeev Kumar

...Petitioners

Vs.

Uttar Haryana Bijli Prasaran Nigam Limited and others

...Respondents

6. CWP No. 10986 of 2015 (O&M)

Nirmala Devi

...Petitioner

Vs.

Uttar Haryana Bijli Prasaran Nigam Limited and others

...Respondents

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CWP No. 23665 of 2015 (O&M)

Kamini Devi

...Petitioner

Vs.

Haryana Vidyut Prasaran Nigam Limited and others

...Respondents

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

Present: Mr. Aftab Singh, Advocates for
Mr. Ashwani Talwar, Advocate for the petitioner(s) in
CWP Nos.9825, 10986, 11048, 11141 & 23665 of 2015.

Mr. V.D.Sharma, Advocate for the petitioner(s)
in CWP-13132-2015.

Mr. R.S.Longia, Advocate for the respondents
in CWP Nos. 11141, 10986 of 2015.

Mr. Suvir Sehgal, Advocate with
Mr. Akshay Sethi, Advocate for the respondents
in CWP-13132-2015.

Mr. V.K.Kaushal, Advocate
for the respondents in CWP No. 11048 of 2015.

Mr. R.D.Bawa, Advocate for the respondents
in CWP Nos. 23665, 11024 of 2015.

Ms. Geeta Sharma, Advocate for respondent No.3
in CWP No. 9825-2015.

Mr. D.S. Nalwa, Advocate for the respondents
in CWP No. 11018 of 2015.

RAJIV NARAIN RAINA, J. (Oral)

This order will dispose of all the above cited cases as the common grievance surfaces which can be decided by a joint order. For the sake of convenience, facts have been extracted from CWP No. 9825 of 2015.

When confronted with the contention advanced by the State

that though the petitioners are working as Malis, Sweepers etc. for over two decades but their cases for regularization could not be considered since there were no regular sanctioned posts, this Court in CWP No. 2326 of 2011, titled 'Chhabi Lal and others Vs. The State of Haryana and others' decided on 20.05.2015 rejected the argument holding that once they have been allowed to work for such a long period of time, it cannot be countenanced that the posts were not regular in nature. The Single Bench relied on an earlier judgment rendered in 'Anand Walia and others Vs. Haryana Urban Development Authority and others', reported as 2013 (3) SLR 611 quoting paragraph 9 of that judgment to the following effect:

“9.... As far as availability of sanctioned posts is concerned, in my opinion, considering the fact that the petitioners had been working in the establishment for the last more than 12 years itself shows that the work available is of continuous nature. We are living in the era of technology. Every record is being computerised. HUDA is the only wholly controlled agency in the State for urbanization. It has developed urban estates in almost all the cities of the State and is controlling lacs of plots.

The entire record thereof pertaining to ownership, transfer of payment of installments etc. is required to be maintained. The job is not temporary in nature. The persons are required on regular basis....”

Further, learned counsel for the petitioner also relies on my judgment in CWP No. 23642 of 2015, 'Laxmi Devi Vs. Haryana Vidyut Prasaran Nigam Limited', decided on 19.01.2018 in which the respondent Nigam was party facing the same issue and was represented by Mr. R.S. Longia, Advocate who appears in this case as well. The Court after noticing the judgment in Secretary, State of Karnataka and others Vs. Uma Devi and others, 2006 (4) SCC 1 and looking to the total length of service in the Board and Nigam comprising of over 21 years held that it would appear unfair and inequitable to dismiss the case of the petitioners on the sheer technicality of the law even when the petitioners therein had not completed 10 years of service on 10.04.2006 which is the date of pronouncement of judgment in *Umadevi* case (supra).

Relying on the decision in Chabbi Lal's case (supra) in CWP No. 11209 of 2015 titled 'Surinder Pal Vs. Haryana Vidyut Prasaran Nigam Limited and others' decided on 19.05.2017 against which LPA No. 570 of 2017 has been dismissed on 25.08.2017 and also in 'Khajjan Singh and others Vs. State of Haryana', 2015 1 S.C.T. 604, I had allowed similar claims for regularization of services.

In the present case, the claim has been rejected for the reason that the petitioners do not fulfill the terms and conditions of the policy of 2011 since they have not worked on sanctioned posts. This argument has been ruled out in those cases and the present one as well

as the element of reasonableness in Article 14 has to be applied in this case, if not the discriminatory part of Article 14 since the respondent-department has insisted that the petitioner has been unable to point out the name of person junior to him or engaged later has had his service regularized. The principle of reasonableness in Article 14 has to be given wholesome meaning by treating the petitioner approximately similar to the counterparts who have secured regularization of service in the same Nigam/Board while working shoulder to shoulder on the same posts of Mali, Sweeper etc.

Accordingly and as a result, for the foregoing reasons, the petition is allowed, the impugned order (Annex. P-1) dated 05.03.2015 is set aside. In cases where no impugned orders have been passed, the impugned inaction is set aside to bring all the cases on par. The respondent-Nigam is directed to regularize the services of the petitioner with all consequential benefits and arrears of pay of three years prior to the date of filing of the petition is allowed. The regularization will relate back to the policy dated 29.07.2011.

(RAJIV NARAIN RAINA)
JUDGE

01.02.2018

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Whether speaking/reasoned : *Yes*

Whether reportable : *No*