

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

CWP-11520-2016

Date of decision: - 09.04.2019

Saroj Kumari

....Petitioner

Versus

Chairman, Punjab State Power Corporation Limited and others

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Rohiteshwar Singh, Advocate,
for the petitioner.

Ms. Promila Nain, Advocate
for the respondents.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance which is being raised by the petitioner is that husband of the petitioner had worked with the respondent Corporation from 1981 till 2008 and had rendered approximately 26 years of service, but his services were not regularized by the respondents though his case was fully covered by the policy issued by the Government of Punjab dated 15.12.2006.

Husband of the petitioner unfortunately died on 14.12.2012 and the present writ petition has been filed by his widow seeking regularization of the services of her late husband and the consequential relief of the pensionary benefits.

The facts as stated in the present writ petition are that the husband of the petitioner joined the Punjab State Electricity Board (now Punjab State Power Corporation Limited) on 22.09.1981 as a work charge driver. The details of the service, which the husband of the petitioner rendered, have been given in paragraph 3, from which it transpires that there was no interruption in the service of the husband of the petitioner right from the day when he was appointed till he attained the age of superannuation in January, 2008. The total length of service rendered by the husband of the petitioner was about 26 years, 3 months and 13 days.

The Government of Punjab had issued instructions for the regularization of the services of its employees on 15.12.2006. These instructions were issued keeping in view the judgment of the Hon'ble Supreme Court of India in **Secretary State of Karnataka and Others Vs. Uma Devi and Others**, 2006(1), SCSLJ 480.

According to these instructions, an employee, who has worked for 10 years as on 10.04.2006 and is still working, is entitled for regularization of his/her services.

As per the facts pleaded in the writ petition, on the date of the issue of the said instructions, husband of the petitioner was having more than 10 years of service to his credit thus was eligible for consideration of his case for regularization of his service. As no benefits was extended by the respondents in terms of policy dated 15.12.2006, husband of the petitioner attained the age of superannuation without his services being regularized and was not allowed to discharge his duties after January, 2008. Unfortunately, husband of the petitioner died on

14.12.2012, after which, the petitioner started approaching the respondents for regularization of the services of her late husband and also for the consequential relief for the grant of the pensionary benefits and family pension to the petitioners. As the said benefit was not being extended to the husband of the petitioner, petitioner filed the present writ petition claiming the same.

Upon notice of motion, reply has been filed by the respondents.

In the reply, details of the service, which the late husband of petitioner rendered continuously from 22.09.1981 till 14.01.2008 has been admitted and it is also admitted that there was no break in the said service. No reason has been given as to why, though late husband of the petitioner was in service on 15.12.2006, his case was not considered for regularization of his services despite being eligible for the said consideration under the policy dated 15.12.2006, whereas, cases of other similarly situated employees were considered by the respondents and their services were regularized.

The only question to be decided in the present writ petition is that as to whether the respondents are liable to be directed to consider the case of the late husband of the petitioner for regularization of the services in pursuance to the notification issued by the Government of Punjab dated 15.12.2006.

As per the instructions dated 15.12.2006, the employees should have worked for not less than 10 years and should have fulfilled the minimum basic qualifications for the post against which he was

appointed/discharging the duties for regularization of his/her services.

The relevant portion of the said instructions dated 15.12.2006 is as under:-

“2. While considering the cases for regularization of the services of such irregularly appointed workers/employees as a one time measure, the following guidelines are to be followed in letter and spirit, namely:-

(i) The employee should have worked for not less than 10 (ten) years as on 10.4.2006 without the intervention of the orders of the Courts or Tribunals against duly sanctioned posts;

(ii) The employee fulfils the minimum basic qualifications for the post against which he was appointed.

(iii) It shall be certified by the competent authority that no supernumerary posts were created to retain the employee in service, when the persons were appointed on regular basis; and

(iv) It shall be the duty of the Administrative Department that while considering the case of each employee, the orders of the Hon'ble Supreme Court of India passed in the aforesaid case are implemented in letter and spirit. It shall be ensured that there should be no further by passing of Constitutional requirements and regularizing or making permanent those, who were not appointed as per the said constitutional scheme.”

From the facts narrated hereinbefore, it is clear that husband of the petitioner fulfilled all the required eligibility conditions for regularization of his services. It is not disputed by the respondents in the written statement that husband of the petitioner did not have 10 years of service as on 10.04.2006 and further he did not have the eligibility required for discharging the duties to the post of driver. In the absence of any such objection taken by the respondents in the written statement, non-consideration of the case of petitioner's husband for regularization of his

services, was without any valid justification.

It is a matter of fact that large number of employees were considered and regularized under the policy dated 15.12.2006 and non-consideration of the case of the husband of the petitioner has resulted that late husband of the petitioner reached the age of superannuation while working on work charge basis despite having more than 26 years of service to his credit. Due to inaction on the part of the respondents, husband of the petitioner retired while working on work charge post and consequently denied the benefit of pension and other benefits which a regular employee will get on superannuation.

In somewhat similar circumstances, a Co-ordinate Bench of this Court while deciding CWP No.4860 of 2009, titled as 'Sohan Singh Vs. State of Punjab and others', decided on 25.05.2010, in respect of a claim made by an employee for regularization of his services in pursuance to the instructions dated 15.12.2006 held as under:-

“11. From the above resume of facts, it is writ large that even when the Government had taken a conscious policy decision in December, 2006, the benefits flowing therefrom have been painfully halted by the respondents and not allowed to reach the poor beneficiaries like the petitioner, by adopting one or the other delaying tactics. There is not even a whisper as to why respondent No.2 took three long years' in implementing a uniform policy decision taken by the Superior Authority, namely, the State Government. Similarly, how imposition of model code of conduct could be relevant to deny the benefits of a decision which had already been taken, are conspicuously missing from the affidavit dated 24.5.2010.

12. In my considered view, the respondents have acted in

a totally unfair, arbitrarily and discriminating manner and have exploited the workcharged employee who invariably belong to the poorest section of the Society, in total dis-regard to their obligation as of a 'welfare State' of 'model employer'. There appears to be a deliberate attempt to deny the petitioner what he deserves in law as well as equity on the strength of his spotless service of over 25 years.

13. For the reasons afore-stated, the writ petition is allowed and the respondents are directed to regularise the services of the petitioner w.e.f. 10.4.2006 in terms of the Government Policy dated 15.12.2006 with all the consequential benefits, within a period of one month from the date of receiving a certified copy of this order.

14. The respondents are further directed to grant the retiral benefits alongwith other consequential benefits, including pension etc. to the petitioner within a period of three months alongwith interest @ 7% per annum from the date of his retirement till the actual payment is made. The petitioner shall also be entitled to the cost of Rs.10,000/- which shall be recovered from the Officers/officials including the Chief Engineer who have delayed the implementation of the Government Policy dated 15.12.2006.”

Keeping in view the above, as no objection has been raised with regard to the eligibility of the husband of the petitioner for being regularization of his services under the policy dated 15.12.2006, a direction is given to the respondents to consider and regularize the services of the late husband of the petitioner under the said policy with effect from the date the similarly situated employees have been regularized by passing an appropriate order. Further, after the regularization of the services of the late husband of the petitioner, the case for the grant of the pensionary benefits by treating the late husband

of the petitioner as a regular employee shall be reconsidered by the respondents by taking into consideration the total service, which he rendered starting from the year 1981 till January, 2008 and calculate his pensionary benefits, which he would have been entitled for, had he be treated as a regular employee on the date, when he was attained the age of superannuation in the year 2008. After the calculations are done by the respondents, the benefits shall be paid to the petitioner. The benefits which have already been paid to the husband of the petitioner at the time when he superannuated in the year 2008, shall be deducted out of the recalculated benefits and difference of the amount, which remains to be paid, shall be paid to the petitioner within a period of two months from the date of receipt of certified copy of this order.

Present writ petition is allowed in the above terms.

April 09, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes