

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

CWP No.11757 of 2016 (O&M)

Date of Decision: 22.04.2019

Didar Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

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

Mr. Abhaypal Singh Gill, AAG, Punjab.

Ms. Nitika Jaura, Advocate,
for respondent No.3.

ARUN MONGA, J.(ORAL)

Learned counsel for the petitioner contends that vide a Policy decision dated 15.11.2011 (Annexure P-8) followed by Circular dated 17.11.2011 (Annexure P-9), Government of Punjab took a decision with regard to the regularization of the contractual employees working in Boards/ Corporations/ Commissions/ Cooperative Societies and other institutions under different departments.

2. He submits that case of the petitioner is squarely covered by these Policies/Circulars. He submits that petitioner has rendered unblemished service record of almost 25 years. He was appointed in the year 1994 as Peon and yet not been given the benefit of regularization pursuant to the Policies/Circular, *ibid*. He submits that it is a conceded case that the petitioner is entitled to

regularization pursuant to the said Policies.

3. Respondent No.2 i.e. the employer of the petitioner made a recommendation dated 31.10.2014 (Annexure P-11) requesting the Executive Officer, Nagar Panchayat, Naya Gaon to permanently absorb the petitioner in the pay scale as is/was being drawn by him under State Urban Development Authority, Punjab. However, vide Resolution No.25 dated 30.07.2015 (Annexure P-14), respondent No.3-Nagar Panchayat vide impugned resolution resolved that owing to the scarcity of funds, recommendation of respondent No.2 cannot be implemented.

4. I am in agreement with the arguments of the learned counsel for the petitioner that while juniors to the petitioner as stated in para 18 of the writ petition have been granted regularization but the case of the petitioner has been negated on the ground of financial scarcity for no fault of the petitioner. He further places reliance on the judgment of the ***Hon'ble Supreme Court in case titled as Maninder Kaur Vs. State of Punjab, 2003 (3) SCT 655***, wherein it has been held that financial constraints of the State, cannot be allowed to a ground for violation of right to equal pay for equal work enshrined under our constitution and to defeat this goal of the constitution.

5. Learned counsel for the petitioner has also placed reliance on a judgment rendered by Division Bench of this Court in ***CWP No. 10097 of 2001 titled as "Sadhu Singh v. State of Punjab"*** wherein it has been held that financial crunch in the State cannot be a ground for denial of benefit to the similarly situated

employees.

6. In the premise, the present writ petition is allowed and the respondents are directed to grant regularization to the petitioner in terms of the recommendation dated 15.11.2011 (Annexure P-8) made by respondent No.2.

7. Respondent No.3 is directed to do the needful within a period of 3 months from the date of receipt of a certified copy of this order.

8. Petition is allowed in the aforesaid terms.

22.04.2019

vandana

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No