

Sr. No. 215

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

CWP No.19152 of 2014 (O&M)

Date of Decision: 08.05.2019

Veena Rani

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Ashok Bhardwaj, Advocate,
for the petitioner.

Mr. Abhaypal Singh Gill, AAG, Punjab.

Mr. Y.P.Khullar, Advocate,
for respondents No.2 to 4.

ARUN MONGA, J.(ORAL)

The petitioner seeks issuance of a writ in the nature of certiorari to quash the order dated 01.10.2013 (Annexure P-5) vide which prayer for regularization of service of the petitioner has been declined. Further prayer has been made for issuance of a writ in the nature of mandamus directing the respondents to regularize the services of the petitioner on completion of ten years of service i.e. 14.07.2005 and release all the financial benefits arising therefrom.

2. It is the case of the petitioner that since 14.07.1995 she has been working with the respondent-PSPCL without any break and yet she has not been given the benefit of regularization of her job in compliance with the 'Regularization Policy' dated 04.03.1999 (Annexure P-7). For ready reference, the relevant part of the said

'Policy' is extracted hereinbelow:-

“A) The part-time workers who have worked for 10 years or more will be considered for regular appointment in the concerned District against 25% Class-IV vacancies which will become available hereafter subject to the following:-

i) That during the tenure of their employment on part-time basis for 10 years or more their presence on duty should have been minimum 80%.

ii) That they fulfil the qualifications for the new job as prescribed under the rules at the time of their consideration for regularization.

iii) That they will be entitled to relaxation in upper age limit up to the number of years they have service as part time workers.

iv) That they have been appointed initially on part time basis through Employment Exchange or through open advertisement in the press; and

v) That they are otherwise found suitable for the post.”

3. A perusal of the above leaves no manner of doubt that part-time employees are also equally eligible for the benefit of regularization and, therefore, the petitioner could not have been non-suited on the ground of being part time.

4. The admitted stand of the respondents as per para 2, on merits of the writ petition is that the petitioner was initially

appointed as part time 'Sweeper' for four hours per day w.e.f. 14.07.1995 in the office of 'Grid Maintenance' and was paid Rs.750/- per month.

5. Per contra, argument canvassed by the learned counsel for the respondent-PSPCL is that the petitioner was neither appointed initially through 'Employment Exchange' nor through an open advertisement, which is a pre-condition for grant of regularization as per the Regularization Policy, *ibid*.

6. Learned counsel for the petitioner submits that a Coordinate Bench of this Court has dealt with the issue of an employee having not been initially appointed through 'Employment Exchange' or through advertisement and held the entitlement of regularization in favour of an employee. He submits that the said issue is no more *res integra*. He submits that the said argument of learned counsel for the respondent is not tenable.

7. Learned counsel for the petitioner has relied on the judgment rendered by this Court in case ***Surinder Singh and others Vs. Punjab State Power Corporation Limited and others, 2019 (1) SCT 456***, wherein the same very Policy was under consideration and the argument of an employee not being recruited initially through 'Employment Exchange' or open advertisement was repelled. The relevant part thereof is extracted hereinbelow:-

“On the other hand, the respondent-Corporation has taken the stand necessarily that the employees ought to have been appointed initially on part-time basis or

*through open advertisement, which argument is not sustainable. As per condition No.2A (IV) of the Policy dated 04.03.1999 (Annexure P-2) in the matter of regularization of services of Class IV part time employees, it was the requirement that the initial appointment should have been through open advertisement. A Division Bench of this Court in **CWP No.16655 of 2003, titled 'Paramjit Singh and others Vs. State of Punjab and others'** had quashed the condition 2A (IV) of the said policy."*

8. Learned counsel for the respondent-PSPCL points out that the document Annexure P-8 appended with the writ petition whereby the petitioner contends that she has been working in two different offices everyday i.e. 4 hours in Ist half and 4 hours in IInd half, is a fabricated document and said objection has also been taken in the written statement.

9. I am of the view that in case the said document was fabricated, the respondent-PSPCL was at liberty to proceed against the petitioner. Further, no such reason was given in the impugned order (Annexure P-5) rejecting the claim of the petitioner for regularization. In this view of the matter, no doubt, case of the petitioner is covered by the Regularization Policy.

10. Having perused the judgment, *ibid* and having heard the arguments put forth by the counsel for both the parties, I am of the view that the case of the petitioner is squarely covered by the Regularization Policy Annexure P-7. The writ petition is,

accordingly, allowed.

11. Respondent No.2-PSPCL is directed to grant the benefit of regularization to the petitioner on completion of 10 years of her service in terms of the 'Regularization Policy' (supra).
12. It is, however, made clear that past pecuniary benefits arising out of the regularization of the petitioner shall be confined only to 38 months' prior to filing of the writ petition.
13. Writ petition is allowed, in the aforesaid terms.

08.05.2019
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No