

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

**CWP No. 25316 of 2016 (O&M)
DECIDED ON : 21.05.2019**

Sonia

...Petitioner

versus

Canara Bank and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Ashok Kumar Nabhwale, Advocate,
for the petitioner.

Mr. Nitin Gupta, Advocate,
for the respondents.

ARUN MONGA, J. (ORAL)

1. Learned counsel for the petitioner, at the outset, submits that persons similarly situated with the petitioner, as reflected from serial No.19 and 20 of the list of participants dated 19.01.2015 (Annexure P-4), have been given the benefit of regularization, whereas the petitioner has been denied the same on the ground that he did not comply with the formality of filling up the form to participate in the Course Orientation Program before being considered for regularization.

2. Vide an order dated 28.02.2019, this Court had directed the respondents to file specific affidavit as to why the petitioner has not been given the benefit, while her juniors have been given the benefit of regularization, as is reflected from affidavit dated 02.03.2017. Pursuant thereto, an affidavit dated 20.05.2019 has been tendered in course of hearing which is taken on record. In the affidavit, a different stand has been taken for the first time that the

petitioner's case is different from those employees who were stated to be junior to her. It is deposed that the petitioner was not engaged against a permanent vacancy and therefore, was dis-entitled to seek regularization. Though not specifically stated, implicitly the deposition in affidavit suggest that only those employees who were engaged against a permanent vacancy have been given the benefit of regularization. The said stand flies in the face of Memorandum of Settlement dated 01.09.2014 (Annexure P-2), relevant whereof is extracted herein below :

“ It is mutually agreed by the parties as under :
The parties have agreed that the following relaxation in the age and educational qualification will be made available to a person, if any, who is intermittently engaged by the branches/offices for cleaning on or after 01.05.2010 and continued to be engaged as on 28.01.2014 and on the date of settlement:

Effective date : As on date of initial engagement		Proposed Norms: (After relaxation)
Qualification		
	Minimum	No Minimum
	Maximum	10 th Standard or Equivalent
Age	Minimum	18 years
	Maximum	31 years (General) 34 years (OBC) 36 years (SC/ST) 41 years (PWD)

3. A perusal of the above leaves no manner of doubt that all those employees, even if they were engaged intermittently on or

before 01.05.2010 and continued to be engaged as on 28.01.2014 and on the date of settlement, will have to be given the benefit of regularization. The stand of respondent-Bank that the petitioner was not engaged against a permanent vacancy, does not stand judicial scrutiny and is not tenable.

4. In view of my above discussion and the reasoning contained therein, the writ petition is allowed. The respondents are directed to consider the case of petitioner for regularization with effect from the date her juniors i.e Mukesh Kumar and Manoj Kumar, as reflected at Serial No.19 and 20 of list (Annexure P-4), have been given benefit of regularization.

5. It is made clear that while petitioner would be entitled to deemed date of regularization with effect from the date her juniors were regularized but the pecuniary benefits arising therefrom are confined to 38 months prior to the filing of present writ petition, along with interest @ 6% per annum.

(ARUN MONGA)
JUDGE

MAY 21, 2019
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Whether speaking/reasoned :	Yes/No
Whether reasoned :	Yes/No