

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

**CWP No. 27282 of 2015 (O&M)
DATE OF DECISION : 15.05.2019**

Satpal and others

...Petitioners

versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Yash Pal Khullar Advocate,
for the petitioners.

Mr. S. K. Vashisth, DAG, Haryana.

Mr. Jatinder Nagpal, Advocate,
for respondent No.3.

ARUN MONGA, J. (ORAL)

1. The petitioners herein seek the benefit of Regularization Policy as notified vide notification dated 29.07.2011 (Annexure P-3). The factual matrix is not disputed.

2. The petitioners are stated to be working as Sweepers/ Safai Karamcharis, on daily wages, since December, 1996 with Municipal Committee, Hodal, District Palwal. Notwithstanding, they have been denied the benefit of regularization with effect from 29.07.2011, that is when the policy *ibid* was notified.

3. In an earlier round of litigation instituted by the petitioners vide CWP No. 14690 of 2012 seeking same relief, a statement was made before this Court that services of the

petitioners have since been regularized during the pendency of writ petition and therefore, the same was rendered infructuous.

4. Despite earlier petition having been dismissed as infructuous, the present petition is necessitated as the petitioners' grievance is that their services have been in fact regularized in terms of another notification dated 18.06.2014 and not in terms of earlier notification dated 29.07.2011.

5. Learned counsel for the petitioners submits that at the time of dismissal of the earlier writ petition, an impression was given to the Court, as also was comprehended by him, that services of the petitioners were regularized in terms of the policy dated 29.07.2011 qua which a mandamus was prayed by the petitioners in the earlier round of litigation.

6. Be that as it may, I have heard the arguments of learned counsel for the parties *de hors* the submissions made before this Court in the earlier round of litigation with regard to entitlement of the petitioners for being regularized in terms of notification dated 29.07.2011.

7. After hearing the arguments and going through the relevant pleadings, I am of the opinion that the petitioners are fully eligible and entitled for grant of regularization as per pre-requisite conditions envisaged in the Regularization Policy dated 29.07.2011 (Annexure P-3). Relevant thereof is extracted herein below :

"1 (i) That the employee/worker should have continued to work for not less than ten years as on

10.04.2006 and is still in service but not under cover of the orders of the Courts or Tribunals, against duly sanctioned vacant posts. The period of continuous break in such service should not be more than one month in a calender year.

(ii) That the employee/worker possessed the minimum prescribed qualifications for the post on the date of appointment/engagement.

(iii) That the concerned employee should have been appointed only after either his name has been sponsored by the Employment Exchange or has been appointed/engaged on the basis of recommendations made by the Departmental Selection Committee by inviting applications through advertisement against duly sanctioned vacant post.

(iv) That the work and conduct of such employee should have been throughout satisfactory and no disciplinary or criminal proceedings should be pending against him.

(v) That the employee should be regularized against a sanctioned vacant post of relevant category.

(vi) A medical fitness certificate and documentary proof of Date of Birth as per the instructions shall be obtained from the employee concerned.

(vii) His antecedents should be got verified by the police as per the Government instructions if it was not done earlier.

(viii) No relaxation of the criteria as laid down above shall be allowed."

.....XXXX

6. The date of regularization shall be deemed to be the date of issuance of this notification, The seniority of the employees shall be fixed from the date of their regularization and they shall be placed below in the seniority to the employees last appointed on the regular basis before the issuance of this notification. However, the inter-se-seniority of such ad hoc/ contract/work charged/daily wages and part time employees so regularized shall be determined in accordance with date of their joining the post on ad hoc/ contract/work charged daily wages and part time basis is the same, then an employee who is older in age shall rank senior to an employee younger in age."

8. Learned counsel for the petitioners submits that petitioners fulfill all the above pre-requisite conditions and therefore, they are entitled for regularization with effect from the date of earlier notification as envisaged in paras 6 and 7 *ibid*.

9. Having gone through the written statement, I find that it is a conceded position that the petitioners have rendered 23 years of continuous service and yet they have not been granted the benefit of policy. The pointed stand taken in the written statement filed by respondent No.2 is that the petitioners were though regularized with effect from 01.06.2014 in terms of later policy of 2014 *ibid*, but their case was sent to Directorate, Urban Local Bodies, vide its letter dated 28.01.2014 and no response

was ever received from the said office. It is further stated that later policy of 2014 was quashed by this Court in CWP No. 17206 of 2014 decided on 31.05.2018 titled as "Yogesh Tyagi v. State of Haryana and others". The judgment of this Court was assailed in the Supreme Court and the outcome thereof is pending. Accordingly, even the later regularization is subject to outcome of the decision by Hon'ble Supreme Court.

10. Learned counsel for the petitioners submits that the case of the petitioners is *de hors* 2014 Policy and as long as it is established that they are covered by 2011 policy which holds the field even today. He submits that similarly situated employees in the State of Haryana have been given the benefit of 2011 policy and therefore, on the ground of parity the petitioners are entitled to be regularized in terms of 2011 policy.

11. I am in agreement with the argument advanced by learned counsel for the petitioners. In view of my above discussion and reasoning contained therein, the writ petition is allowed. The respondents are directed to regularize the petitioners with effect from 29.07.2011 in terms of Regularization Policy dated 29.07.2011 (Annexure P-3) and to that extent of inconsistency therewith the regularization letters appended as Annexures P-4 to P-22 are partly quashed with a direction that date of regularization mentioned therein shall be read as 29.07.2011 and not 20.06.2014. The petitioners shall be entitled to all consequential benefits arising therefrom along with interest

@ 6% per annum with effect from the date of notification until its actual disbursement.

13. Let the needful be done within a period of three months from the date of receipt of certified copy of this order.

(ARUN MONGA)
JUDGE

MAY 15, 2019
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No