

CWP No.4819 of 2016

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

CWP No.4819 of 2016

Date of Decision: 08.01.2019

Santosh Devi

.....Appellant

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- None for the petitioner.

Mr.Hitesh Pandit, Addl.A.G.Haryana.

RITU BAHRI, J. (ORAL)

Petitioner is seeking quashing the impugned order dated 16.10.2015 (Annexure P-8) whereby, the claim of the petitioner to regularize the services of the petitioner has been rejected and further seeking direction to regularize the services of the petitioner as Sweeper against available vacancy caused to the death of Smt.Ramo Devi on 07.08.2013 in view of Policy dated 01.10.2003 (Annexure P-2).

Petitioner has placed on record Government Policy (Annexure P-2) whereby, an amendment by Haryana Government on 20.07.2011 whereby regularization of even part time workers can be made to work for not less than 10 years as on 10.04.2006 and is still in service but not under orders of the Courts or Tribunal against duly sanctioned vacant posts. If the break in service of any such employee/worker has been caused for no fault attributable to him, such break period should be condoned unless it is of an extraordinary longer period i.e. not more than 90 days in a year. However, if

the break in service has been caused due to fault of the employee like abandonment of employment, the Government may not condone the same if the period of such break is more than a period of 30 days in a years. A notification dated 29.07.2011 (Annexure P-3) has also been placed on record in support of his contention.

A reference has been made on behalf of petitioner to the judgment of the Hon'ble Supreme Court in the case of Malathi Das (Retd.)now P.B.Mahishy and others Vs. Suresh and others 2014(4)SCT 205 (Anneuxre P-5)whereby, it is held that similarly placed employees having been regularized by the State in case of some of them such regularization being after the decision of Uma Devi" case. Appellants and all other competent authorities of the State will be obliged and duty bound to regularize the services of the respondents on principle of parity. Vide Annexures P-6 and P-7, a request has been made by the petitioner to the respondents to regularize her as part time sweeper. Vide impugned order dated 16.10.2015 (Annexure P-8), the claim of the petitioner has been rejected as she was engaged as part-time sweeper on Deputy Commissioner rates basis. Her engagement to the post of 'sweeper' on part time basis was a back door entry which was against the rules and instructions, because neither her name was sponsored by the Employment Exchange nor she was engage on the basis of recommendation of the Department Selection Committee by inviting application through advertisement against duly sanctioned post. So far as claim of the petitioner for regularization of her service in view of the Government Policy dated 01.10.2003 is concerned, it was submitted that the policy dated 17.06.1997, 05.11.1999, 01.10.2003 and 10.02.2004 regarding regularization of service of Class-IV employees, had been withdrawn by the

Government vide gazette notification dated 13.04.2007, as such, petitioner was not entitled to any right to be absorbed or made permanent in service merely on the strength of such continuance.

On notice, reply has been filed by respondents No.1 to 4 stating therein same cause as mentioned above in the impugned order dated 16.10.2015 (Annexure -8) and moreover, the Chief Secretary to Government, Haryana vide letter dated 25.04.2007 issued in view of the judgment State of Karnataka Vs. Uma Devi cited 2006 (4) SCC, has held that temporary/adhoc, daily wages and contractual employees would not be entitled to any right to be absorbed or made permanent in service merely on the strength of such continuance.

In view of the above and keeping in view that petitioner has not filed any replication to show that petitioner is working for the last 10 years or she has completed 10 years as part time worker, no ground is made to interfere in the impugned order dated 16.10.2015 (Annexure P-8) and the present writ petition is dismissed as such.

(RITU BAHRI)
JUDGE

08.01.2019

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No