

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 6165 of 2015 (O&M)
Decided on 22.04.2019

Surinder Pal & Ors.

... Petitioners

Versus

State of Punjab & Ors.

.... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. D.S. Patwalia, Sr Advocate with
Ms. Gurjot Grewal, Advocate
for the petitioners.

Ms. Ambika Sood, DAG, Punjab.

Mr. Bankey Bihari, Advocate
for respondents No. 2 and 4.

ARUN MONGA, J.

The present writ petition has been filed, *inter alia*, seeking issuance of writ in the nature of certiorari for quashing order dated 17.02.2014 (Annexure P-11) and order dated 23.01.2015 (Annexure P-10), to a limited extent, whereby, the petitioners were granted regularisation of service neither from the date of appointment nor from the date of Resolution of the Board of Governors, but from a later date i.e. on 23.01.2015.

2. Succinctly, the factual background is that the petitioners were appointed on contract basis to various posts in the respondent-Punjab Energy Development Agency (here-in-after to be referred as PEDDA), on different dates of appointment, pursuant to the different advertisements. They filed a writ petition bearing CWP No. 3102 of 2003, titled as **Bikramvir Singh and others vs. State of Punjab and others**, decided on 25.02.2003 (Annexure P-3), vide which, respondents were directed to

consider their case for regularization and pay scales. In pursuance to that direction, they were granted the relief of regularisation of services and regular pay scales. Concededly, the respondent-PEDA, gave benefit of regular pay scale only w.e.f. 01.04.2003 but denied regularisation of services to the petitioners inspite of the order of this Court.

3. The Board of Governors of the respondent-PEDA, in its meeting dated 15.06.2007, gave in principle approval to grant the benefit of regularisation of services to the petitioners but the same was not implemented and instead was sent to the State Government for final approval. The State Government vide notifications dated 18.03.2011 and 17.11.2011 (Annexure P-5 and P-6, respectively), decided to grant the benefit of regularisation to the petitioners and all similarly situated employees. Pursuant to this, the petitioners again made representations to the respondent-Agency. A Committee was formed to consider the request of the petitioners and vide its decision dated 31.05.2011 (Annexure P8), it was resolved as under:-

“In view of the facts given above, committee recommends that the services of all these four (34) contractual of Punjab Energy Development Agency/ Punjab Genco Ltd. may please be regularised with effect from 1.4.2011, as per Punjab Government policy and one time measure.”

4. No further action was taken by the respondents and the petitioners were forced to approach this Court again vide CWP No. 15852 of 2011 titled as **Nanak Singh and others v. State of Punjab and others** (Annexure P-13). Vide order dated 28.03.2012 (Annexure P-9), directions were issued by this Court to the respondents to take a decision as per the Government Policy. The respondents, vide order dated 23.01.2015

(Annexure P10), regularised the services of the petitioners w.e.f. 23.01.2015. To the surprise of the petitioners, by order dated 17.02.2014 (Annexure P-11), the terms and conditions for regularisation were subject to various riders and conditions like not counting the past service, probation, etc. Hence the present writ petition.

5. The petitioners have placed reliance on a Division Bench judgment of this Court rendered in LPA No. 1400 of 2013, titled as **State of Punjab vs. Amarjit Singh and others** wherein it has been held that an autonomous body has the authority to take a decision on the regularisation of its employees. It is stated that in light of this decision, the resolution of the Board of Governors, in its meeting dated 15.06.2007, should be binding and the petitioners should be regularised from the year 2007.

6. The respondent-Agency, in its written statement has averred that the petitioners were appointed in the year 1995 and granted regularisation w.e.f. 23.01.2015 as per the Government policy/notification dated 17.11.2011 (Annexure P-6), wherein it was decided to grant benefit of regularisation but past service benefits would not be given. Their pay was accordingly fixed at minimum scales as protection of contractual remuneration cannot be given. It is stated that the proper procedure was followed and contractual employees, including the petitioners, were regularised. They also averred that reliance placed by the petitioners on the judgment rendered in LPA No. 1400 of 2013, is misplaced as in that case the employees of one department were deputed to another department and no sepcific policy, as is the case here, was made.

7. In their replication, the petitioners reiterate that inspite of resolution of the Board of Governors to regularise the petitioners, the same

was never implemented. It is also admitted position that the respondent-PEDA is an autonomous body, yet they sent the proposal for approval to the State Government. It is further stated that pursuant to impugned order dated 17.02.2014 (Annexure P-11), their pay was decreased. They re-emphasize that the judgment in LPA No. 1400 of 2013 is relevant in the present case.

8. I have heard the learned counsels for the parties and have gone through the record with their able assistance.

9. Reliance placed by learned counsel for respondent-PEDA on the policy decision dated 17.11.2011 (Annexure P-6) which envisages that the services of contractual employees will be regularized with immediate effect and under which the petitioners have rightly been regularized, is misplaced. The said policy decision clearly envisages that the employees will not be provided any financial or notional benefits of their previously rendered services.

10. In the present case, the petitioners were already granted the regular pay scale way back in the year 2003 and ever since, they have been drawing their salary in the regular pay scales. Furthermore, the case of the petitioners was thrice recommended by the Board of Governors of PEDA as is reflected from the minutes dated 15.06.2007 (Annexure P-4), followed by minutes dated 07.08.2009 as reproduced in para 8 of the writ petition. A perusal of the recommendation vide minutes dated 31.05.2011 (Annexure P8), reflects that the policy decision of the State Government was duly considered and after deliberations thereupon, the respondent-PEDA consciously decided to regularize the services of the petitioners w.e.f. 01.04.2011 as per the policy, *ibid*, as one time measure.

11. As far as the pay scales are concerned, learned counsel for

respondent-PEDA fairly concedes that the same have been protected vide order dated 03.03.2017 qua the petitioners. He submits that regular pay scales were granted to them way back in the year 2003 and the said pay scales were not disbursed at the time of grant of regularization. A copy of the said order dated 03.03.2017 has been handed over to learned counsel for the petitioner in course of hearing and the same is taken on record of this Court.

12. In the premise, the impugned order dated 17.02.2014 (Annexure P11), is set aside and as a necessary consequence thereof, the impugned order dated 23.01.2015 (Annexure P10) also does not stand judicial scrutiny and is liable to be set aside. Accordingly, the present petition is allowed and the respondents are directed to grant regularization to the petitioners w.e.f. 01.04.2003, as decided by Board of Governors of respondent-PEDA, vide Annexure P-8.

April 22, 2019
smriti

(ARUN MONGA)
JUDGE

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