

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 9333 of 2016

Date of decision : March 06, 2019

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Sadiya Muthu

.....Petitioner

Versus

Haryana Urban Development Authority
and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Yash Paul Malik, Advocate for the petitioner.

Mr. Piyush Khanna, Advocate for the respondents.

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RITU BAHRI, J.

The petitioner is seeking directions to the respondents to treat the petitioner as a regular employee from the initial date of his appointment keeping in view the directions given by this Court vide order dated 07.02.2011 (Annexure P-1).

Keeping in view that petitioner was orphan a direction was given vide order dated 07.02.2011 (Annexure P-1) to appoint the petitioner immediately and this direction has been complied with by the respondents. Now, the petitioner has been appointed on compassionate grounds as a daily wager on 06.05.2011.

On notice of this petition, a stand taken by the respondent in the short reply is that pursuant to the directions given by this Court vide order dated 07.02.2011 (Annexure P-1), the petitioner was engaged on daily wages w.e.f. 1.6.2011 as a special case relaxed only in the case of children who became orphans upon the demise of the government employee. In lieu of his appointment, he has worked in the department from 01.06.2011 to 30.01.2013 in HUDA Division No.1 and subsequently, in Division No.II and in no terms, a regular appointment was ever given to the petitioner. Apart from being an employee on daily wages, petitioner has been given financial assistance to the tune of Rs.71790 (DCRG + Leave encashment + Ex gratia). The claim of the petitioner for regularization is not tenable. Vide letter dated 17.2.2011, approval was granted for ex gratia employment as Beldar to the petitioner in the pay scale of Rs.4400-7440 Grade Pay Rs.1300/- as a special case, petitioner being an orphan and minor at the time of death of his father Lt. Sh. Kalanji Nadar, Beldar who died on 26.1.1999 and in view of the observations made by this Court in CWP No. 2774 of 2010.

A perusal of this letter shows that nowhere in this letter has been mentioned that this appointment is not regular rather he has been given the pay scale of Rs.4440-7440 Grade Pay Rs.1300/- which is given only at the time of regular appointment. Daily wager is never appointed in grade pay in normal due course of appointment since petitioners case was taken as a special case being an orphan. The respondents cannot deny regular appointment keeping in view the Judgment passed by the Division Bench of

this Court in *Yogesh Tyagi and another vs. State of Haryana and others*, **2018 (3) SCT 181**. In the case of Yogesh Tyagi, the regularization policy dated 18.6.2014 had been quashed. Keeping in view the letter dated 17.2.2011, petitioner is to be taken as a regularly appointed Beldar in the pay scale of Rs.4440-7440 Grade Pay Rs.1300/- being an orphan and minor at the time of death of his father Sh. Kalanji Nadar who died on 26.1.1999. Letter dated 17.2.2011 is also taken on record as Annexure A-1. The letter of appointment does not anywhere shows that the petitioner is to be appointed on daily wages. Since the petitioner was appointed under the ex gratia scheme as a special case, it is not the case of the respondents that ex gratia appointment is to be given under daily wages.

Keeping in view all that has been discussed above, moreover, since petitioner was appointed as a special case in the ex gratia appointment keeping in view that she was an orphan and her father had died, the writ petition is hereby allowed. The petitioner shall be treated as a regular Beldar from the date of his initial appointment.

March 06, 2019

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(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No