

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

CWP No.29881 of 2019 (O&M)

Date of Decision.17.10.2019

Shalini Tuli

...Petitioner

Vs

State of Haryana and others

...Respondents

Present: Mr. Sameer Sachdeva, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

-.-

AMIT RAWAL J. (ORAL)

The petitioner has approached this Court for vindication of the threat already expressed in the resolution by urging that process of opportunity of filing reply is an eye wash/farcical exercise.

Mr. Sameer Sachdeva, learned counsel appearing on behalf of the petitioner submitted that vide order dated 06.10.1994, petitioner was appointed as a Clerk in the Haryana Labour Welfare Board, Chandigarh in the pay scale of Rs.950-1500 on temporary basis for a period of 89 days on various terms and conditions. Her services were regularized vide order dated 12.02.2009. Before that vide Annexure P-6, exemption was granted for recommendation of her name from employment exchange and after rendering services, became eligible for promotion and vide order dated 05.06.2015 was promoted to the post of Assistant in the pay scale of Rs.9300-34800+G.P. 3600.

One more person namely Naresh Kumar Sharma, who was also seeking claim for regularization approached this Court vide CWP No.14664 of 2017 for issuance of writ in the nature of mandamus directing respondents to regularize his services to the post of Peon-cum-Chowkidar

with all consequential benefits along with interest @18% per annum. For the reasons best known to Welfare Board in the meeting held on 10.06.2019 without taking any legal opinion decided to de-regulaize services of the petitioner, owing to the pendency of the writ petition and accordingly was served with show cause notice (Annexure P-17) dated 03.10.2019. Petitioner though has been given chance to file reply but once the decision has already been taken, serving show cause notice was totally an eyewash. Petitioner has serious apprehension that her services would be de-regularized and reverted to the status of ad hoc clerk.

Though prima facie, prayer does not appear to be reasonable as period of show cause notice has not expired. On going through contents of agenda, which is extracted herein below, apprehension of the petitioner appears to have some force:-

“Regarding the regularization of services of late Shri Jagwinder Singh, Ex-Driver, Smt. Shalini Tuli and Shri Karan Singh Assistants and Sh. Naresh Kumar, Peon.

A) Approved

B) Decision was taken on the matter of the Board regarding de regularization of the regular services of the concerned employees Smt. Shalini Tuli and Shri Karan Singh, Assistants and putting them back on the position before the date of their regularization and starting the proceedings of serving them the show cause notice as per the opinion of the district attorney of the Board and considering the replies of the employee in the next meeting. The services of Shri Naresh Kumar Peon-Cum-Watchmen cannot be regularized because

he was appointed through backdoor and is not covered under any policy for regularization rather proceedings is being done for de regularizing the illegal appointment of above said employees. Decision for putting this fact before the Hon'ble Punjab and Haryana High Court in CWP/14664/2017 through the advocate of the board was taken.”

Without expressing any merit and demerit on merit of the case, I dispose of writ petition with direction to petitioner to file reply to the show cause notice and respondents, after taking into consideration all the material placed on record or submitted at the time of filing of reply, shall pass a speaking order. Till then, petitioner shall not be reverted on the post of ad hoc clerk. In case, Department chose to take an adverse decision, petitioner shall be granted reasonable opportunity to avail the remedy of challenging the order passed against her and till then, the impugned order will not implemented.

(AMIT RAWAL)
JUDGE

October 17, 2019
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No