

CWP-12121-2016 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-12121-2016 (O&M)

Date of Decision: 13th March, 2020

Pritam Singh

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. J.S. Bhandohal, Advocate, for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

None for respondent No.3.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-1576-CWP-2018

Replication to the written statement on behalf of respondent No.3 along with Annexures P-11 to P-17 is taken on record, subject to all just exceptions.

Application stands allowed.

CWP-12121-2016

When the case came up for hearing before this Court on 22.01.2020, following order was passed:-

“It is the contention of the learned counsel for the petitioner that the petitioner had been working with the respondents after being selected in pursuance to an Advertisement dated 20.12.2008 and his name having been sponsored by the District Employment Officer, Moga, he, in pursuance to his selection, joined on the

post of Patwari on 04.02.2009 on the basis of an interview which was held on 22.01.2009. Petitioner has been serving the respondents since that date without any complaint and his work and conduct has not been ever adversely commented against. Policy decision was taken by the Government of Punjab for regularizing the services of the employees including those who were on contract basis vide decision dated 18.03.2011 (Annexure P-3) and thereafter, another Instructions dated 17.11.2011 (Annexure P-4) were issued for regularization of the services of the employees such as the petitioner as well. When the claim of the petitioner, which has been submitted by him, was not decided, petitioner filed CWP No. 8339 of 2015 titled as Pritam Singh vs. State of Punjab and others, which was disposed of by this Court vide order dated 01.05.2015 (Annexure P-9) calling upon the respondents to consider and decide the representation of the petitioners dated 25.01.2013 which was duly recommended on 21.05.2013 and 23.10.2013 within a period of three months from the date of receipt of certified copy of the order. In pursuance thereto, impugned order dated 11.02.2016 (Annexure P-10) has been passed by the Special Secretary, Government of Punjab, Department of Rural Development and Panchayat on the ground that the Policy decision/Instructions dated 18.03.2011, which has been issued by the Personnel Department, does not mention the name of the Department of Rural Development and Panchayat and, therefore, these Instructions are not applicable to the department. This was the reason for rejection of his name for regularization of his services. Petitioner has, thus, approached this Court by way of the present writ petition.

Counsel for the petitioner contends that during the pendency of the writ petition, it has come to light that the Director, Department of Rural Development and Panchayat, Punjab, has issued a letter dated 02.01.2017 (Annexure P-12) regarding the regularization of the services of Patwari working in Panchayat Samities/Zila Parishads of the Punjab State. According to this letter, services of the Patwari have to be regularized as per the Instructions of the Government of Punjab. Some of the other employees, who are similarly placed as the petitioners, have been regularized in service vide orders dated 07.02.2017 and 03.01.2017 (Annexures P-15 to P-17 respectively). Counsel contends that in the light of the department having been accepted that the services of the employees, who are working on ad-hoc, contractual, daily wage, work charge, have to be regularized, the claim of the petitioner, who is working on contract basis, deserves to be accepted in same terms.

Counsel for the State prays for an adjournment to file reply to the assertions of the petitioners as recorded above.

The needful be done within a period of one week.

Counsel for the petitioner undertakes to supply copies of the application along with the annexures to the counsel for the respondents during the course of the day.

List on 12.02.2020.”

2. In compliance with the said order, an additional affidavit dated 26.02.2020, of the Block Development and Panchayat Officer, Moga-I, District Moga, on behalf of respondents No.1 and 2 has been filed, according to which, the stand taken therein is that the vires of the Punjab Ad

Hoc, Contractual, Daily Wage, Temporary, Work Charge and Outsourced Employees Welfare Act, 2016, is under challenge before the Division Bench in CWP No.4187 of 2017, titled as 'Ankita Gupta & others Vs. State of Punjab & others'. The pendency of the challenge of the said Act is being sought to be taken as a refuge for answering the question and the issue which stands culled out and dealt with in part in the order dated 22.01.2020. The said Act has nothing to do with the aspect which was to be responded to by the respondents. It appears that the respondents have no reply to the observations of this Court referred to above.

3. In view of the above, the present writ petition is allowed. The impugned order dated 11.02.2016 (Annexure P-10), vide which the claim/representation of the petitioner for regularization of his services was declined, is hereby set aside. Direction is issued to consider the claim of the petitioner for regularization in the light of the letter dated 02.01.2017 (Annexure P-12) and pass an appropriate order regularizing his services within a period of four weeks from today.

4. It goes without saying that the petitioner shall be entitled to all consequential benefits which would flow from the said order of regularization as per the letter dated 02.01.2017 (Annexure P-12).

(AUGUSTINE GEORGE MASIH)
JUDGE

13th March, 2020
Harish

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