

Sr.No.218

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

**CWP No.19070 of 2015
Date of decision:06.10.2020**

Surjeet Kaur

... Petitioner(s)

versus

State of Punjab and others

... Respondent (s)

Coram: Hon'ble Mr. Justice Jasgurpreet Singh Puri

Present: Mr. J.P.S.Sidhu, Advocate
for the petitioner.

Ms. Anju Arora, Addl.AG, Punjab.

Hearing through Video Conference

Jasgurpreet Singh Puri, J.

1. Present writ petition has been filed under Article 226/227 of the Constitution of India seeking prayer for issuance of writ in the nature of mandamus directing the respondents to regularize the services of the petitioner w.e.f. 04.03.1999 and grant her all the consequential benefits including pension and pay the arrears with interest @15% per annum as per the policy dated 04.03.1999(Annexure P-2).

2. Facts leading to the filing of the present writ petition are as follows:-

Petitioner was appointed as PTS(Part-Time Sweeper) on 01.03.1970 and had served the department for more than 42 years. Thereafter, she was relieved from duty in the year 2013 without passing any order with regard to her retirement. State of Punjab formulated a policy with regard to regularization of services of PTS vide Annexure P-2 dated

04.03.1999 in which it was stated that part time workers who worked for 10 years or more will be considered for regular appointment in the concerned departments and in the concerned districts against 25% class-IV vacancies which will become available subject to certain conditions. The relevant portion of the policy is reproduced as under:-

“2 After thorough consideration Government have decided to formulate a policy for the regularisation of the services of Part time workers as follows:-

(A) the part time workers who have worked for 10 years or more will be considered for regular appointment in the concerned departments and in the concerned District against 25% Class IV vacancies which will become available hereafter subject to the following:-

(i) that during the tenure of their employment on part time basis for 10 years or more, there presence on duty should have been minimum 80%.

(ii) that they fulfill the qualifications for the new job as prescribed under the rules at the time of their selection for regularisation.

(iii) that they will be entitled to relaxation up to upper age limit upto the number of years they have served as Part-Time workers.

(iv) that they had been appointed initially on

*parttime basis through Employment Exchange or
through open advertisement in the Press and*

*(v) that they are otherwise found suitable for
the job.”*

3. The grievance of the petitioner is that despite the policy of the government in this regard, no action was taken by the respondents to regularize the services of the petitioner who fulfilled the conditions and had put in more than 10 years of service on the date of issuance of policy. She had also served a legal notice dated 19.03.2015 to the respondents but no action was taken in this regard. Therefore, the petitioner has filed the present writ petition in the year 2015.

4. Learned counsel for the petitioner has submitted that in-action on the part of the petitioner to regularize the services of petitioner has prejudicially affected her rights and therefore, there is a gross violation of Article 14, 21 and 300-A of the Constitution of India besides violation of the policy of the government itself. Learned counsel has further submitted that various other PTS were regularized including those who were even junior to the petitioner and has relied upon various judgments of this Court where by the services of the PTS were directed to be regularized. Learned counsel has relied upon *CWP No. 12199 of 2000* (Annexure P-3) wherein one Sukhdev Kaur had filed a writ petition who was also PTS seeking regularization of her service which was allowed by this Court on 23.09.2002. It was observed in that case that at the time when the said petitioner was taken into service as PTS, there is nothing to show that there was system of sending requisitions to the employment exchange and therefore, the objection taken by the State

that she was not routed through employment exchange was not in accordance with law. Therefore, it was directed in that case that the petitioner would be placed in a regular time scale of pay and consequential reliefs be also given to the petitioner. The learned counsel has further submitted that vide order dated 08.11.2012(Annexure P3-A) the State regularized the services of number of PTSs including the aforesaid Sukhdev Kaur. Further vide order dated 03.07.2015 (Annexure P3-B), the services of Jasmail Kaur, PTS were also regularized.

5. Learned counsel for the petitioner has further relied upon the judgment of this Court in *CWP No.1824 of 2014* titled as *Surjit Kaur vs. State of Punjab and others* decided on 16.01.2015 (Annexure P-8) wherein the petitioner of that case was also PTS had filed writ petition on the ground that she was appointed in the year 1983 on part time basis and had attained the age of 60 years and despite numerous policies of the government, the service of the petitioner was never regularized. This Court allowed the aforesaid petition and directed the respondents to grant the petitioner deemed date of regularization in terms of policies instructions and thereafter, to determine the consequential benefits in favour of the petitioner.

6. The aforesaid judgment was assailed by the State of Punjab in ***LPA No.771 of 2015*** which was dismissed on 29.04.2016 by observing that the policy dated 04.03.2019 was a welfare scheme of State of Punjab in deference to its Constitutional obligations with a purpose to achieve a laudable object to confer the status of regular employees on those Class-IV part time employees who are in service for 10 years or more and if the authorities find that due to non-availability of requisite vacancies, they were unable to achieve the object and purpose of the policy even in those cases

where part-time employees have reached the age of superannuation, it was imperative upon them to re-visit and re-modulate the same so that it does not turn out to be a false promise or a mirage. This Court while making reference to the judgment of the Constitution Bench of the Hon'ble Supreme Court in ***Secretary, State of Karnataka and others vs. Umadevi and others, 2006(4) SCC 1*** expressed that we are sure that the State of Punjab will look into the aspect of the matter and restructure the policy in such a manner that the services of Class-IV part-time employees are regularized at least before one attains the age of retirement and in case, regular vacancy does not become available, in that case, such employee shall be taken to have been made regular immediately before his retirement. Such a liberal and pragmatic interpretation is the only effective modicum to achieve its object. The relevant portion of the aforesaid judgment is reproduced as under:-

“Having held that, it may be further seen that the policy decision dated 4th March, 1999 is undeniably a welfare scheme launched by the State of Punjab in deference to its Constitutional obligations. The policy has been issued to achieve a laudable object to confer the status of regular employees on those Class IV part-employees who are in service for 10 years or more. It may be true that the policy contemplates adjustment of part-time Class IV employees against 25% vacancies which were to become available after the policy has come

into force. However, if the authorities find that due to nonavailability of requisite vacancies, they were unable to achieve the object and purpose of the policy, even in those case where part-time employee has reached the age of superannuation, it was imperative upon them to re-visit and re-modulate the same so that it does not turn out to be a false promise or a mirage

Should such a policy remain on papers or its object must percolate to net-end beneficiaries, at least to those who, after long span of 30 years of service, have attained the age of retirement, is a question which the authorities themselves ought to have addressed instead of awaiting for the court directions.

We are sure that the State of Punjab will look into this aspect of the matter and re-structure the policy in such a manner that services of Class IV part-time employees are regularized at least before one attains the age of retirement and in case, regular vacancy does not become available, in that case, such employee shall be taken to have been made regular immediate before his retirement. Such a liberal and pragmatic interpretation is the only effective

modicum to achieve its object. Suffice to observe that recourse to such a policy decision is permissible under the mandate of Constitution Bench decision in Secretary, State Of Karnataka And others vs Umadevi And Others, 2006(4) SCC 1.

In the light of the above discussion, the respondent is held entitled to the benefits of liberal construction of the policy as have been granted by the learned Single Judge.

For the reasons afore-stated, we do not find any merit in this appeal. Accordingly, the same is dismissed.”

7. Reply has been filed in the present case by the Executive Engineer, Lehal Division, Irrigation Branch, Patiala wherein it has been admitted that the petitioner was working in the department as part time sweeper and has been relieved from service vide order dated 31.03.2013 and that the petitioner had filed the present petition after 1½ years. The stand taken in the reply was that the petitioner has not furnished her date of birth and that even if it is presumed that date of appointment of the petitioner is 01.03.1970 even then her age is more than 61 years but the affidavit which she has furnished her date of birth was given as 24.06.1960 which is not possible because then it would mean that she had joined the department at the age of 10 years. Therefore, she was asked to submit the certificate

issued from the Senior Medical Officer, Budhlada regarding her date of birth and that she never submitted her certificate and never approached the department. It is further pleaded in the reply that she was never relieved by the department but she herself left the job on 31.03.2013. It has been prayed in the reply that writ petition should therefore be dismissed.

8. I have heard the learned counsel for the parties.

9. When notice of motion was issued in the present case on 10.09.2015, the respondents were directed to furnish action taken pursuant to the legal notice dated 19.03.2015. However, no such decision was placed on record. Thereafter, the petitioner filed a counter affidavit to the reply submitted by the State by stating therein that the petitioner had worked for more than 40 years in the department on a meager pay and respondents had exploited the petitioner because she was in the need of work to feed her family and on the other hand, as per the policy issued by the State of Punjab, number of similarly placed persons had been regularized and the petitioner is discriminated without any reason. It was further stated in the affidavit that the petitioner is an illiterate lady and belongs to Scheduled Caste category and is a very poor person, and that there is no record of the date of birth of the petitioner and due to absence of record of date of birth of the petitioner, she can not be denied the benefit of regularization because the petitioner served the department from 01.03.1970 to 31.03.2013. It is further stated in the affidavit that once it is admitted by the department that she has worked in the department for such a long period of time then the certificate of date of birth is inconsequential especially when the petitioner is an illiterate lady and other similarly situated persons have already been regularized. It was categorically stated in the affidavit that the petitioner is not having any date

of birth certificate.

10. Thereafter, when the matter came up for hearing on 11.09.2019, the contentions raised by learned counsel for the petitioner were recorded to the effect that the services of the petitioner can be considered for regularization in view of the orders passed by this Court in somewhat similar cases where an employee who had rendered service in a similar fashion but retired without her services being regularized, this Court allowed the benefit while deciding the ***CWP No.1824 of 2014*** titled as ***Surjeet Kaur versus State of Punjab and others*** decided on 16.01.2015, which judgment has been upheld by the Division Bench of this Court in ***LPA No.771 of 2015*** on 29.04.2016. It was further observed in the order that the only objection raised by the respondent is that they have to verify the correct age of the petitioner, and that the age has nothing to do with the grant of claim of regularization as admittedly, learned counsel for the respondents on instructions from Ashish, Assistant Engineer stated that the record of the petitioner is available with the respondents to show that the petitioner had worked with the respondent-department from the year 1970 till 2013. The benefit is to be granted to the petitioner for the services rendered after regularization of her services. It was directed that the respondents to consider the case of the petitioner in view of the judgment rendered by this Court in *Surjeet Kaur's* case(supra) for the grant of regularization and place their decision so taken before this Court before the next date of hearing.

11. Thereafter, when the matter was taken up for hearing on 16.01.2020, learned counsel for the petitioner stated in the Court that even after passing of the order dated 11.09.2019, the Executive Engineer had again asked the petitioner to submit the age proof before any action is to be

taken in pursuance of the order dated 11.09.2019. This Court recorded that *prime facie* a letter which has been issued to the petitioner on 12.12.2019 is contrary to the order dated 11.09.2019 passed by this Court and the same amounts to Contempt of Court and directed the officer who issued said letter to remain present in the Court on the next date of hearing. Thereafter, when the matter came up for hearing on 05.02.2020, the aforesaid officer who had been asked to remain present in Court did not appear in the Court, and therefore this Court observed that *prima facie* it is a disobedience of the order passed by this Court and therefore, the Principal Secretary, Department of Irrigation Punjab as well as Executive Engineer were directed to appear on the next date of hearing and the learned Advocate General Punjab stated that the order will be conveyed and complied with by the concerned authorities.

12. Thereafter, additional affidavit was filed by the Executive Engineer dated 06.02.2020 and the Principal Secretary remained present in the Court and assured that due extra care taken will be taken in case of retired employees now onwards so that they do not suffer from any prejudice due to delay caused by the department with regard to grant of various benefits for which they might be entitled for as instructions have been issued in this regard to the various officers of the department to be careful in future while dealing with the cases of retired employees. On this date, an additional affidavit was also filed by the Executive Engineer in which it was stated that the due claim of the petitioner with regard to the regularization of service and consequential benefits arising thereto shall be initiated by the department and the same will be forwarded to the concerned quarters i.e. office of the Accountant General, Punjab latest by 28.02.2020 and that the

due benefits arising out of the regularization of the service of the petitioner shall be released to the petitioner at the earliest.

13. However, no such order was passed in this regard. On the next date for hearing i.e.24.03.2020, the functioning of the Court was not taking place due to the out break of Covid-19 epidemic and therefore, the matter was listed for final hearing of the main case on 16.09.2020 in which the State apprised the Court that the order of regularization has already been passed. An affidavit of the Executive Engineer dated 15.09.2020 was filed in the Court alongwith the orders of regularization dated 20.03.2020. The relevant portion of the aforesaid order is reproduced as under:

“State of Punjab, Department of Personnel issued a policy dated 04.03.1999(Annexure A-4) regarding regularization of Part time employees working in various departments. The salient features of the policy have been reproduced in the above decision dated 29.04.2016 in LPA No.771 of 2015. The petitioner in the present case, Smt. Surjeet Kaur, started working as a Part Time Sweeper on 17.07.1984 as per the Fixed charge register of Lehal Division, I.B., Patiala. As such, the petitioner had completed more than 10 years of service as a part time sweeper prior to the policy instructions dated 04.03.1999. Her presence on duty on part time basis during the

period is more than 80%. As such she fulfils the basic requirements of the policy dated 04.03.1999 for regularisation, however she does not fulfil the requirement at S.No.2(A)(iv) i.e. appointment through Employment Exchange or Open advertisement in the Press. However, now that she has put in more than 28 years in service as a part time sweeper, it will not be appropriate to deny her the benefits for regularization as per the directions given by Hon'ble Punjab & Haryana High Court in CWP No.16655 of 2003 titled as Paramjit Singh & others vs. State of Punjab and others.

After the policy dated 04.03.1999, no post of regular class-IV sweeper, has been filled by Lehal Division I.B, Patiala. As per the policy, 25% posts were to be reserved for regularisation of such part time workers. Since there was no vacancy of the sweeper, no post was available for the regularisation of services of the petitioner Smt. Surjeet Kaur, as a regular sweeper.

However, in the order dated 29.04.2016 in LPA No.771 of 2015, the Hon'ble Court had desired that the State of Punjab shall looko into the aspect regarding the non-availability of

regularisation of such Part time employees, who had rendered long span of service. The relevant extract has been reproduced above as marked(A).

However, no such restructuring of the policy has been carried out and no such fresh policy has been framed by the State Government. As such, keeping in view the orders dated 11.09.2019 and dated 06.02.2020(Annexure A-5) in CWP No.19070 of 2015, and order dated 16.01.2015 in CWP 1824 of 2014, along with order dated 29.04.2016 in LPA No.771 of 2015, the petitioner Smt. Surjeet Kaur, who worked as a Part time sweeper in Lehal Division, I.B.Patiala, from 17.07.1984 to 31.12.2012, her services are hereby regularised on the last date of her retirement i.e.31.12.2012. Her claim for the grant of pension will be considered as per the policy of the Department of Personnel, if any.”

14. Perusal of the aforesaid order of regularization would show that the respondent-State has admitted that the petitioner was appointed as PTS on 17.07.1984 and she had completed more than 10 years as PTS and her presence on duty was more than 80%, she fulfills the basic requirements of the policy dated 04.03.1999 except that she was not appointed through employment exchange or open advertisement. It is further mentioned in the

order that now since she has put in more than 28 years of service as PTS, it will not be appropriate to deny her the benefit of regularization as per the directions issued by this Court in *CWP No.16655 of 2003* titled as *Paramjit Singh vs. State of Punjab and others*. It is further stated in the order that after the policy of 04.03.1999, no post of regular Class-IV sweeper was filled up by the Lehal Division, Irrigation Branch, Patiala since there was no vacancy of the sweeper and no post was available for regularization of service of the petitioner as a regular employee. Therefore, keeping in view the various orders passed by this Court, the petitioner was ordered to be regularized on the last date of her retirement which is mentioned as 31.12.2012 and that her claim for the grant of pension will be considered as per the policy of the department of Personnel, if any. Thereafter, another additional affidavit was filed by the Executive Engineer on 21.09.2020 in which it was stated that the applicable payments consequent upon the regularization have been duly initiated and forwarded to the District Treasury, Patiala. It was further stated in the affidavit that provisional pension i.e. 75% of the full proposed basic pension amount has been granted to the petitioner w.e.f.01.01.2013 and would be released to the petitioner at the earliest possible and then the remaining due benefits as applicable arising out of regularization will be released to the petitioner at the earliest as per the approval by the Accountant General, Punjab.

15. The law pertaining to pension and pensionary benefits as being a Constitutional right is no longer *res integra*. Way back in the year 1971, a Constitution Bench of the Hon'ble Supreme Court in ***Deokinandan Prasad vs. The State of Bihar and others; 1971(2) SCC 330*** observed that right to receive pension is a property under Article 31(1) and the said claim is also a

property under Article 19(1)(f). The relevant para of the judgment is reproduced as under:-

“Having due regard to the above decisions, we are of the opinion that the right of the petitioner to receive pension is property under Art. 31(1) and by a mere executive order the State had no power to withhold the same. Similarly, the said claim is also property under Art. 19(1)(f) and it is not saved by sub-article (5) of Art. 19. Therefore, it follows that the order dated June 12, 1968 denying the petitioner right to receive pension affects the fundamental right of the petitioner under Arts. 19(1)(f) and 31(1) of the Constitution, and as such the writ petition under Art. 32 is maintainable. It may be that under the Pension Act (Act 23 of 1871) there is a bar against a civil court entertaining any suit relating to the matters mentioned therein. That does not stand in the way of a Writ of Mandamus being issued to the State to properly consider the claim of the petitioner for payment of pension according to law.”

16. In ***State of W.B. vs. Haresh C. Banerjee and others; (2006) 7 SCC 651*** the Hon'ble Supreme Court observed that Articles 19(1)(f) and 31(1) have been repealed by the Constitution (Forty-fourth Amendment) Act, 1978 and the right to property is no longer a fundamental right but it is

now a Constitutional right as provided under Article 300-A of the Constitution of India. It was further observed that the pension is not a bounty payable on the sweet will and pleasure of a government and to receive a pension is a valuable right of a government servant. Para 4 and 6 of the aforesaid judgment is reproduced as under:-

“4. Pension is not a bounty payable on the sweet-will and the pleasure of the Government and to receive pension is a valuable right of a Government servant is a well-settled legal proposition. The question in the present case, however, is not about the deprivation of the said right by the Government by an executive order but is about the constitutional validity of Rule 10(1) providing for withholding of pension or part thereof in certain cases.

5. Articles 19(1)(f) and 31(1) have been repealed by the Constitution (Forty-Fourth Amendment) Act, 1978 w.e.f. 20th June, 1979. The right to property is no longer a fundamental right. It is now a constitutional right, as provided in [Article 300A](#) of the Constitution. Right to receive pension was a fundamental right at the time of framing of Rules in 1971. The question is whether a Rule framed under proviso to [Article 309](#) of the Constitution providing for withholding of the

pension would ipso facto be ultra vires, being violative of Article 19(1)(f) as it stood in 1971 when Rules were framed.”

17. In ***State of Jharkhand and others vs. Jitender Kumar Srivastava;(2013) 12 SCC 210*** it was observed that a person cannot be deprived of his pension without the authority of law which is a Constitutional mandate enshrined in Article 300-A of the Constitution and even a part of the pension or gratuity or leave encashment can not be taken away without any statutory provisions and without the authority of law. The relevant para 15, 16 and 17 are reproduced as under.

“15. In State of W.B.v.Haresh C.Banerjee this Court recognised that even when, after the repeal of Article 19(1)(f) and Article 31(1) of the Constitution vide Constitution (Forty-fourth Amendment) Act,1978 w.e.f. 20-6-1979, the right to property no longer remained a fundamental right, it was still a constitutional right, as provided in Article 300-A of the Constitution. Right to receive pension was treated as right to property. Otherwise, challenge in that case was to the vires of Rule 10(1) of the West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 which conferred the right upon the Governor to withhold or withdraw a pension of any part thereof under certain circumstances and the

said challenge was repelled by this Court.

16. The fact remains that there is an important to the legal principle that the right to receive pension is recognised as a right in "property" Article 300-A of the Constitution of India reads as under:-

"300-A. Persons not to be deprived of property save by authority of law--- No person shall be deprived of his property save by authority of law."

Once we proceed on that premise, the answer to the question posed by us in the beginning of this judgment becomes too obvious. A person cannot be deprived of this pension without the authority of law, which is the constitutional mandate enshrined in Article 300-a of the Constitution. It follows that attempt of the appellant to take away a part of pension of gratuity or even leave encashment without any statutory provision and under the umbrage of administrative instruction cannot be countenanced.

17. It hardly needs to be emphasised that the executive instructions are not having statutory character and, therefore, cannot be termed as

“law” within the meaning of the aforesaid Article 300-A. On the basis of such a circular, which is not having force of law, the appellant cannot withhold even a part of pension or gratuity. As we noticed above, so far as statutory Rules are concerned, there is no provision for withholding pension or gratuity in the given situation. Had there been any such provision in these Rules, the position would have been different.”

18 In *State of Uttar Pradesh and others vs. Dhirender Pal Singh*; (2017) 1 SCC 49, the Hon'ble Supreme Court while relying upon the *State of Kerala vs. M. Padmanabhan Nair*, held as under:-

“In State of Kerala and others v. M. Padmanabhan Nair [1], this Court has held that pension and gratuity are no longer any bounty to be distributed by the Government to its employees on the retirement but are valuable rights in their hands, and any culpable delay in disbursement thereof must be visited with the penalty of payment of interest. In said case the Court approved 6% per annum interest on the amount of pension decreed by the trial court and affirmed by the High Court. As to the rate of interest on amount of gratuity Section 7(3-A) of Payment of Gratuity Act, 1972, it is provided that if the amount of gratuity payable is not paid by the employer within the period

specified in sub-section (3), the employer shall pay, from the date on which gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long term deposits, as that Government may by notification specify. It further provides that no such interest shall be payable if the delay in payment is due to the fault of the employee, and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground. In the present case, there is no plea before us that the appellants had sought any permission in writing from the controlling authority. As to the delay on the part of employee, it has come on the record that he made representations, whereafter he filed a suit in respect of withheld amount of gratuity and pension. In [Y.K. Singla v. Punjab National Bank and others](#)[2], this Court, after discussing the issue relating to interest payable on the amount of gratuity not paid within time, directed that interest at the rate of 8% per annum shall be paid on the amount of gratuity.”

19. From the aforesaid sequence of events, it has become crystal clear that the petitioner has admittedly worked in the respondent-department for large number of years. The petitioner claimed to have worked from 1970

to 2013 and the respondents have admitted that the petitioner has worked from 17.07.1984 to 31.12.2012 which is about 28 years. It has also come on record in the speaking orders passed by the respondent dated 20.03.2020 that the petitioner had fulfilled all the requirements as per the policy instructions dated 04.03.1999 except that she was not appointed through employment exchange and this aspect as to whether such a condition of appointment through employment exchange is of any relevance or not has already been decided by this Court in ***Sukhdev Kaur's*** case (supra). It has also come on record that similarly situated persons have been already regularized by the respondents vide Annexure P-3A dated 08.11.2012 in which it can be seen that some of them were initially appointed even after the appointment of the present petitioner. Therefore, in-action on the part of the respondent is *ex facie* perverse, arbitrary and discriminatory. The petitioner who is an illiterate lady was constrained to file the present petition which she had filed in the year 2015 and it is also clear from the interim orders which have been discussed above which were passed in this petition that every time the respondent State had been taking up stand that since the petitioner has not provided the date of birth and her claim can not be considered. Ultimately, on 20.03.2020 the respondent State passed the order of regularization and that too from date w.e.f. date of her retirement i.e. 31.12.2012 even though the similarly situated persons were regularized on 08.11.2012 vide Annexure:3-A in which some of the persons were even junior to the petitioner as per the date of appointment. Furthermore, even though the order of regularization was passed on 20.03.2020, learned counsel for the petitioner has categorically submitted that not even penny has been paid to the petitioner till date. Although in view of the affidavit filed by the State,

it has been stated that the remaining due benefits will be paid at the earliest but the same has not been paid till date. In pursuance of the order of regularization, the respondents have fixed the provisional pension of the petitioner @ 75% and no reasons what-so-ever have been stated in the affidavit dated 21.09.2020 as to why a provisional pension has been fixed and why full pension has not been fixed. There were no proceeding either departmental or criminal or any other against the petitioner. No justification or reason has come forward as to why provisional pension has been fixed and why not full pension in accordance with the service rules. It appears that although the respondents have acted in an arbitrary and discriminatory manner from the beginning itself but even after passing of the order of regularization, the action of the respondent is still more arbitrary and perverse. Furthermore, when the petitioner filed an application for preponement of the date of the case vide CM NO.8742 of 2020, it was stated that the petitioner is ill and is on death bed and her condition is not well, and therefore, this aspect also attains significance. Not only this, when the matter came up for final arguments, Mr. Harmanjit Singh, Advocate has caused appearance on behalf of Accountant General Punjab although the same is not a party in the present petition and prayed for grant of time for filing application for impleading the Accountant General Punjab as party. When asked as to why at this stage, the Accountant General, Punjab needs to become a party, learned counsel on instructions has stated that the benefits can not be granted to the petitioner in view of the fact that the petitioner has not provided the proof of age or her birth certificate. Such kind of submission made on behalf of the Accountant General, Punjab deserves to be outrightly rejected as it is nothing but an attempt to delay the

proceedings.

20. In view of the above, present petition is allowed. It is directed
that

(i) date of regularization of the petitioner shall
be 08.11.2012 i.e. when the other similiarly
situated persons including some of the juniors of
the petitioner were regularized vide Annexure P-3-
A.

(ii) Respondent State shall fix full pension of
the petitioner and re-calculate the pension of the
petitioner and pay the arrears of all the admissible
benefits to the petitioner arising out of
regularization of service of the petitioner within a
period of four weeks from today alongwith interest
@6% per annum from the date when the benefit
became due.

(iii) petitioner shall also be entitled for costs of
Rs.25,000/- which shall be paid by the respondent
department to the petitioner by way of demand
draft.

6th October, 2020

Shivani Kaushik

[JASGURPREET SINGH PURI]

JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No