

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

**CWP-23925-2013 (O&M)
Date of Decision:09.01.2020**

Soma

... Petitioner

Versus

State of Punjab & others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Malkeet Singh, Advocate for the petitioner.

Mr. TPS Chawla, DAG, Punjab.

Ms. Jasvir Kaur, Advocate for respondents No.3 and 4.

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TEJINDER SINGH DHINDSA, J. (ORAL)

Counsel for the parties have been heard.

Prayer in the instant petition is for issuance of directions to the respondent/Municipal Council, SBS Nagar to regularize the services of the petitioner who has been serving as a part time Safai Sevika since the year 1990.

The undisputed facts as emerge from the pleadings on record are that petitioner was appointed as a part time Safai Sevika on a consolidated monthly salary of Rs.250/- vide Resolution No.40 dated 25.07.1990 of the erstwhile Municipal Committee, Nawanshahr. Appointment letter dated 07.08.1990 (Annexure P-1) was accordingly issued to the petitioner and which she accepted. Petitioner has continuously served on the post of Safai Sevika since the year 1990. In the reply filed on behalf of the respondents, no question has been raised as regards the work and conduct of the petitioner.

The claim for regularization is contested by the Municipal Council, SBS Nagar by submitting that the Department of Local Bodies, State of Punjab issued Instructions dated 21.12.2011 applicable to all the Municipal Councils across the State and as per which an upper cap of 47 years of age was laid down for purposes of grant of benefit of regularization. It is stated that since the petitioner had crossed the age threshold of 47 years as on 21.12.2011 a such she was not entitled to be regularized in service.

In the considered view of this Court, the stand taken by the employer/Municipal Council, SBS Nagar is not acceptable.

Placed on record at Annexure P-7 are the proceedings of the meeting dated 29.05.2012 of the Municipal Council, Nawanshahr. Agenda No.11 dealt with the issue of regularization of part time Safai Sevaks and who had been working since the last 20-25 years. Under such proceedings, the name of the petitioner was also considered and wherein it has been reflected that she had joined on the post of Safai Sevika on 10.08.1990 but only for the reason that she had crossed the age of 47 years on 30.11.2011 the benefit of regularization has not been accorded. Be that as it may, all the other Safai Sevaks who were less than 47 years of age were granted the benefit of regularization.

It would be apposite to take note that the issue with regard to regularization of service had been agitated by the Punjab State Municipal Employees Action Committee, Punjab and in such regard a meeting had taken place on 05.06.2011 under the Chairmanship of Hon'ble Minister, Local Government, Punjab. At Annexure P-6 are the proceedings of such meeting held of 05.06.2011 and the decisions take thereto. Perusal of

Annexure P-6 would reveal that a decision in principle had been taken that services of the Safai Sevaks/Sewermen including i.e. engaged by the Mohalla Sanitation Committee were to be regularized and who had worked continuously for the last more than 10 years and had been appointed in due course and fulfilled the requisite qualifications and experience of the post.

Adverting to the facts of the present case, counsel representing respondents No.3 and 4 does not dispute the appointment of the petitioner in the year 1990. There was no blemish as regards her work and conduct. Even the contents of the document placed on record at Annexure P-6 have not been disputed. In other words, a right had come to be crystallized in favour of the petitioner to be considered for regularization as per decision taken in the proceedings of the meeting held on 05.06.2011 at Annexure P-6. It was not open for the Municipal Council, SBS Nagar to have sat over the matter and thereafter to have taken up the issue of regularization much thereafter i.e. on 29.05.2012 vide Annexure P-7 so as to confront the petitioner with the subsequent Instructions dated 21.12.2011 and to hold her ineligible for the benefit of regularization by citing the upper age limit of 47 years. The inaction of the Municipal Council in such regard can only be termed as unfair and unjust.

The petitioner as of date has rendered service as a part timer over a period of 30 years approximately. Even on the date of the meeting that was held on 05.06.2011 under the Chairmanship of Hon'ble Minister, Local Government, Punjab and the Punjab State Municipal Employees Action Committee, Punjab, where a decision had been taken to regularize the services of all the Safai Sevaks/Sewermen and who had worked

continuously for the last more than 10 years, the petitioner had completed 20 years of part time service approximately. Keeping an employee as a part timer over a period of 30 years approximately and ignoring a claim for regularization, cannot in any manner be justified.

That apart, the proceedings of the meeting dated 29.05.2012 of the Municipal Council at Annexure P-7 would in itself demonstrate that a number of employees who had not completed 47 years of age had been regularized. Availability of posts, as such, was not an issue.

In view of the above, writ petition is disposed of with a direction to respondent No.3/Municipal Council, SBS Nagar to consider the claim of the petitioner for regularization keeping in view her length of part time service rendered and coupled with the decision contained in the communication endorsed on 14.06.2011 issued by the Directorate, Local Government Department, Punjab at Annexure P-6. For the reasons that have already been recorded, the instructions dated 21.12.2011 issued by the Local Government Department, State of Punjab would have no applicability insofar as the claim of the petitioner for regularization is concerned.

A final decision with regard to the claim of the petitioner as regards her regularization be taken within a period of 8 weeks from the date of receipt of a certified copy of this order.

Disposed of.

09.01.2020

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |