

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25711-2016 (O&M)
Date of decision:- 15.01.2020

Veena Kumari

.....Petitioner

vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. R.K.Malik, Sr. Advocate with
Mr. Sandeep Dhull, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G., Haryana.

RITU BAHRI, J. (Oral)

CM-15061-CWP-2017

Application is allowed.

Amended writ petition is taken on record.

CWP-25711-2016 (O&M)

The petitioner is seeking quashing of order dated 29.09.2017 (Annexure P-16) by which her claim for regularization w.e.f. 01.10.2003 has been rejected.

Learned counsel for the petitioner has argued that the petitioner was appointed through employment exchange as Art and Craft Teacher on adhoc basis as per appointment letter dated 13.09.1994 (Annexure P-1) and she joined on 15.09.1994. During her service, she faced criminal case registered against her vide FIR No. 22 dated 12.02.2002 and was acquitted by the Criminal Court vide judgment dated 19.12.2013 (Annexure P-3).

After acquittal from the criminal case, she made representation dated

05.06.2014 (Annexure P-4) for regularization and her department regularized her services w.e.f. 28.05.2014 vide order dated 20.10.2016 (Annexure P-13). Thereafter she made another representation dated 03.12.2014 (Annexure P-10) to regularize her services as per regularization policy dated 01.10.2003 (Annexure P-2). This representation has now been rejected vide order dated 29.09.2017 (Annexure P-16).

Learned counsel for the petitioner has further argued that only reason given for rejecting her representation is that her services could not be regularized as she was facing criminal case during that period and even if she was acquitted by giving benefit of doubt, petitioner could not be taken to be fully exonerated and therefore she was not found entitled for regularization w.e.f. 01.10.2003.

Learned counsel for the petitioner has referred to judgment of Supreme Court passed in ***Joginder Singh V/s. Union Territory of Chandigarh and others*** to contend that hon'ble acquittal and acquittal by giving benefit of doubt would have same meaning and a selected candidate cannot be deprived from being appointed by declaring him unsuitable to the post even if he is honourably acquitted.

At this stage, learned counsel for the State has argued that as per the condition of regularization policy dated 01.10.2003 (Annexure P-2) the work and conduct of an employee has to be overall good and she should not be facing any disciplinary proceedings/criminal proceedings when her case for regularization is to be considered. Since the petitioner was facing criminal trial, her case was not rightly considered as per policy dated 01.10.2003 (Annexure P-2). After acquittal in the year 2013 vide judgment dated 19.12.2013 (Annexure P-3) her case was considered as per policy

prevailing at that time and her services had been rightly regularized vide order dated 20.10.2016 (Annexure P-13) as per policy dated 18.06.2014 (Annexure P-6). He further states that at the time when case of the petitioner was considered for regularization, policy dated 01.10.2013 had since been withdrawn in the year 2007 after the judgment of Supreme Court passed in ***Secretary, State of Karnataka and others V/s. Uma Devi and others 2006(4) SCC 1*** and the department has rightly regularized her services as per policy dated 18.06.2014 (Annexure P-7).

In the present case, it is not being disputed by the parties that the petitioner had served the department since 15.09.1994 till she retired. There had been no break in service even during the pendency of the criminal trial and no disciplinary proceedings were initiated by the department against her on account of facing criminal trial. Even as per policy dated 01.10.2013 (Annexure P-2) the services of an adhoc employee could not be regularized if disciplinary proceedings were pending. However if disciplinary proceedings were dropped and had attained finality, adhoc employee has right to be regularized as per policy dated 01.10.2003 (Annexure P-2).

For all intents and purposes, acquittal as per the judgment of ***Joginder Singh's case (supra)*** cannot be taken against the person for appointment. Even for regularization, if an employee is acquitted in the criminal trial, it cannot be used against him to deny him benefit of regularization as per policy dated 01.10.2003 on the ground that this policy was withdrawn in the year 2007 after the judgment passed in ***Uma Devi's case (supra)***. The petitioner had rendered service from 15.09.1994 till 2017 i.e. for almost 23 years.

Keeping in view judgment of ***Joginder Singh's case (supra)***, this

petition is allowed. Order dated 29.09.2017 (Annexure P-16) is being set aside and direction is being given to the respondents to regularize services of the petitioner as per policy dated 01.10.2003 (Annexure P-2) within a period of one month from the date of receipt of certified copy of this order and release all consequential benefits of the retirement within a period of next three months.

Pending application, if any, stands disposed of.

15.01.2020

Divyanshi

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No