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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24026-2017 (O&M)
DATE OF DECISION:-24.02.2020

SAROJ KUMARI

....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ram Niwas Sharma, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl.AG, Haryana.

RITU BAHRI, J.(Oral)

In the present case, the petitioner is seeking quashing of order dated 02.05.2017 (Annexure P-10) whereby the claim of the petitioner for regularization has been rejected on the two grounds, firstly, she has not completed three years of services as on 30.09.2003 and second ground is that the petitioner was not appointed prior to 31.01.1996. Finally it has been held that the petitioner does not fulfill the conditions of regularization under the policies dated 01.10.2003 and 10.02.2004 (Annexures P-6 and P-7). As far as the conditions for appointment prior to 31.01.1996, the Division Bench judgment in case ***CWP No. 9708 of 2004*** titled as ***Ajit Singh Versus State of Haryana and others*** decided on 04.02.2015 (Annexure P-11) categorically held that vide notification dated 10.02.2004, a condition was imposed that the services of those daily wagers will be regularized who have been engaged before 31.01.1996. This condition has been held to be arbitrary and

unreasonable keeping in view that a person who has served for five years he cannot be regularized only on the ground that he was not engaged before 31.01.1996 whereas a daily wager who completes three years of service from 30.01.1996 can be regularized. Since this condition has already been held to be arbitrary, the impugned order (Annexure P-10) is liable to be set aside.

The only ground taken in the written statement is that the civil suit filed for regularization has already been dismissed in the year 2011 and have attained finality, this cannot be a ground to deny the benefit of regularization to the petitioner as the respondents have themselves considered this case and rejected it only on the ground that she is not covered under the policies dated 01.10.2003 and 10.02.2004. The Supreme Court is very clear on the issue that the department cannot exploit daily wager after utilising her life for 22-23 years.

The writ petition is being allowed. Respondents, at the same time, has not disputed that the petitioner has been working with the respondents since 01.06.2000 continuously. The order is being set aside and direction is given to the respondents to re-consider the case of the petitioner without insisting on the condition that she should be appointed prior to 31.01.1996 and keeping in view of the Division Bench judgment (Annexure P-11), pass the appropriate order of regularization in view of the policy dated 01.10.2003 (Annexure P-6) within a period of three months with all consequential benefits.

24th February, 2020

shabha

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No