

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

CWP No.3229 of 2017

Date of Decision: 11.02.2020

Sahib Kaur

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Deepak Sonak, Advocate,
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

RITU BAHRI, J. (ORAL)

Petitioner is seeking direction to the respondents to regularize her services from the date, her juniors have been regularized.

Sahib Kaur-petitioner was appointed as Beldar-cum-Mali in respondent-department on daily wage basis in July, 1985. However, her services were terminated w.e.f. 01.04.2000. Vide award dated 21.01.2008 (Annexure P-1) passed by the Labour Court, Rohtak, she was ordered to be reinstated with continuity of service and 50% back wages from the date of demand notice i.e. 13.11.2000. This award was never challenged by the department and has attained finality.

Learned counsel for the petitioner has referred to the information dated 20.07.2007 (Annexure P-7) received under the Right to Information Act, 2005, which shows that similarly situated employees have been regularized by the respondent-department as per Policy of Regularization dated 01.10.2003. Learned counsel for the petitioner has

services of similarly situated employees have been regularized w.e.f. 01.10.2003. Even, those employees were working on daily wage basis.

Respondents, in their written statement, are not disputing the information dated 20.07.2007 (Annexure P-7). Learned counsel for the respondents argued that the petitioner does not fulfill the qualification and there was no sanctioned post available.

Heard, counsel for the parties.

Recently, Hon'ble the Supreme Court in **Sheo Narain Nagar and others V/s. State of Uttar Pradesh and others**, 2018 AIR SC 233 was considering case of daily wagers, who were employed in the month of August, 1993. Thereafter, they were appointed on contractual basis in the year 1996 and in the year 2000, they were appointed as regular employees on the minimum pay scale. Thereafter vide order dated 25.07.2006, they were given status of temporary employees with retrospective effect from 01.01.2002. They approached the High Court for regularization of their services, but the learned Single Judge of the High Court dismissed the writ petition seeking regularization. The Division Bench of the High Court also affirmed that order. Thereafter in the year 2014, their services were terminated. Hon'ble the Supreme Court, while referring to judgment passed in **Secretary, State of Karnataka and others V/s. Umadevi and others**, (2006) 4 SCC 1, held that the petitioners had been working since 1993 and as one time measure, they had a right to be considered for regularization. It was not a case of back-door entry or illegal appointment. The Hon'ble Supreme Court rejected the argument of learned counsel for the respondents that it was not the case of irregular appointment but of illegal appointment,

since there was post available on which the services of those daily wagers could be regularized.

In the facts of the present case, pursuant to the award dated 21.01.2008 (Annexure P-1) passed by the Labour Court, Rohtak, petitioner has been reinstated with continuity of service and 50% back wages. For all intents and purposes, petitioner's service has to be taken as continuous service from the date of termination till she was reinstated. Petitioner has a right to be considered as per Policy of Regularization dated 01.10.2003 (Annexure P-4).

In view of the above discussion, this petition is allowed and the respondents are directed to regularize the services of the petitioner at par with her juniors, who have been regularized, as per information dated 20.07.2007 (Annexure P-7) w.e.f. 01.10.2003 keeping in view the Policy of Regularization dated 01.10.2003 (Annexure P-4) with all consequential benefits along with interest at the rate of 6% per annum. This exercise be completed within a period of three months from the date of receipt of certified copy of this order.

(RITU BAHRI)
JUDGE

11.02.2020
ajp

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