IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

233 **CWP-9483-2017 and other connected cases**
Date of decision: 02.03.2020

Sanjay Kumar and another

.....Petitioners

versus

State of Punjab and another

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. L.S. Lakhanpal, Advocate
for the petitioner(s) in CWP Nos.9483, 25592 & 28704 of 2017.
Mr. Jasbir Singh Mohri, Advocate
for the petitioner(s) in CWP Nos.3456 & 28323 of 2018 and

Mr. Rajesh Bhardwaj, Sr. DAG, Punjab.

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GIRISH AGNIHOTRI, J. (Oral)

1. This order shall dispose of five writ petitions i.e CWP Nos.9483, 25592 & 28704 of 2017 and CWP Nos.28323 & 3456 of 2018. For ready reference, facts have been taken from CWP-9483-2017 and CWP-3456-2018.

2. Petitioners have *inter alia* prayed for direction to the respondents to consider claim of the petitioners for regularization of their services in view of the notification dated 24.12.2016 (Annexure P-3), issued by Punjab Government. The petitioners have also placed reliance upon the "The Punjab Adhoc, contractual, Daily wage, Temporary, Work Charged and Outsourced Employees Welfare Act 2016" (for short 'the Act'). The pleaded

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case of the petitioners is that petitioner No.1 was appointed as Class-IV employee on the post of Barber in the 1st IRB on 26.09.1997. It is further the case that petitioner No.2 was appointed on 18.06.1997 as Class IV employee on the post of Washer-man (Dhobi) under the Commandant IRB, Patiala. In CWP-3456-2018, petitioner-Abdesh Sharma and 33 others have prayed for seeking directions to regularize the services of the petitioners w.e.f. the date, the employees, who are juniors to the petitioners, have been regularized by the respondents.

Learned counsel for the petitioners relies on Annexure P-3 (appended with CWP-3456-2018), which is an order passed by the Commander 3rd Indian Reserve Battalion, Ludhiana, whereby, in accordance with the letter of DGP, Punjab dated 30.12.2016 Class-IV employees (Daily wager) who have completed three years of service are ordered to be regularized as Class IV employee.

In CWP-3456-2018, after notice of motion, reply has been filed by Shri Harjit Singh DSP on behalf of respondents No.1 to 5. In Para Nos.4 & 5 of preliminary submissions of the reply, it has *inter alia* been mentioned that certain writ petitions (for example CWP-4187-2017) are pending and interim stay has been granted.

At this stage, learned counsel for the petitioners submits that in fact, it has been checked up and no interim stay has been granted (staying regularization of the employees).

Today, on resumed hearing of the case, an additional affidavit dated 28.02.2020 has been filed by Shri Harjit Singh, Deputy

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Superintendent of Police, on behalf of respondents No.1 to 5. The broad stand has been taken Para 6 of the additional affidavit, which is reproduced hereunder:-

> *"6) That it is respectfully prayed that in the present scenario, the answering respondent is not able to proceed on with this matter since the Act under consideration has been repealed as a whole, no matter as to which grouping whether A, B, C or D the petitioner claiming relief under this Act belongs to. This makes the plea of the petitioner infructuous. Since the petitioners are serving in the department and no affect on their service to their detriment is likely, it is submitted that when the new Act will come up the case of the petitioners will be considered according to their eligibility and parameters of selection under the new Act."*

This Court deems it appropriate to dispose of the writ petitions with the following directions to the respondents:-

(i) The claim of the petitioners in all the writ petitions be considered by the Competent Authority-respondent No.2 and appropriate orders be passed within four months from the date of receipt of certified copy of the order.

(ii) These directions are given in view of the fact that in the pleadings before this Court, no interim stay has been shown to the Court, whereby, interim stay can stated to be ordered staying consideration of cases for regularization of the employees. The Competent Authority may examine this issue and in case, there is no interim stay (as pointed by counsel for the petitioners), the Competent Authority is directed to consider and decide the claim of the petitioner.

(iii) While deciding claim of the petitioners, the Competent Authority may consider the fact that their claim for regularization had been pending since long. The Competent Authority is directed to consider their case for regularization

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from the date so demanded by the petitioners, however, in case, the Competent Authority finds that as per new affidavit, the Act of Welfare 2016, has been repealed, in that event a reasoned order shall be passed by the Competent Authority explaining the reasons as to why the cases of the petitioners do not deserve to be considered on the date of the application and on the date when similarly situated employees were regularized when the act was still in existence.

(iv) The respondents shall, in any case, abide by their stand taken in Para 6 of the affidavit.

Writ petitions are disposed of accordingly.

(GIRISH AGNIHOTRI)
JUDGE

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Whether speaking/ reasoned: Yes/No
Whether Reportable: Yes/No

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