

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

CWP No.10184 of 1999 (O&M)

Date of decision: 26.05.2022

Karan Singh and others

...Petitioners

Vs.

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. R.K.Malik, Senior Advocate with
Mr. D.S.Mann, Advocate and
Mr. Sandeep Dhull, Advocate
for the petitioners.

Mr. R.D.Sharma, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of mandamus commanding the respondents to consider the claim of the petitioners for regularization in light of the policy decision dated 17.10.2002 (Annexure P-1).

2. Petitioners have been working for the last more than 27 years on part-time basis as Class IV employees. State Govt. notified regularization policy dated 01.02.1999 (Annexure P-1), entitling the part-time employees who had completed five years of service to seek benefit therein. Petitioners also served demand notices to consider their cases for regularization in light of the policy decision.

3. It transpires that during the pendency of the instant writ petition, another writ petition bearing CWP No.17734 of 1999, filed by certain other similarly situated part-time employees, was disposed of vide an order dated 06.11.2001 by a Division Bench of this Court observing as below:-

“The case of the present petitioners was considered and rejected vide order, annexure P/6, on the short ground that as per the government instructions, issued on 1.2.1999, it was incumbent for an employee who claimed regularization, to be employed through the Employment Exchange and as the petitioners had not been employed through that agency, their services could not be regularized.

During the course of the hearing, Mr. Rajbir Sehrawat, Deputy Advocate General, has also referred to the instructions dated 30.12.1998/25.2.1999 which deal with the regularization of class IV employees of the Education department.

We are of the opinion, however, that in order to give justice to employees, who have been working on a part-time basis in some cases for decades together in different departments, a rational policy for regularization ought to be framed. We also find that in this situation, the requirement that the candidates should be recruited through the Employment Exchange, cannot be made applicable at this belated stage and would also be arbitrary as some employees such as petitioner No.1 would have put in some 25 years of service. The matter thus requires consideration by the State Government taking into account the basic ground realities.

We accordingly dispose of these writ petitions and direct the petitioners to make a representation to the State Government seeking a reconsideration of their cases aforesaid keeping in view the latest situation on facts and law. The decision be taken within 4 months from the date that a certified copy of the order is supplied Dasti.”

4. Apropos above, the worthy Chief Secretary of the State, vide his office instructions dated 17.10.2002 conveyed a subsequent regularization policy of the part-time employees which was addressed to all the Head of Departments/Deputy Commissioners of the State, Relevant thereof is extracted herein-below:-

“2. After careful consideration, and in the line with the spirit of the judgment of the Hon'ble High Court in CWP No. 17734/99 (O&M), the Government of Haryana has decided to amend the policy for regularization of Part Time Group 'D' employees, after taking a lenient and compassionate view, so as to cover those Part Time Group D employees, who were not initially recruited through the Employment Exchange or after obtaining Non Availability Certificate from the Employment Exchange, but have completed at least 10 years of continuous service on the date of issue of these instructions.

3. *Accordingly, with effect from the date of issue of these instructions, whenever a Group-D post becomes available in the office of the State Government, a part time Group-D employee, who was not initially recruited through Employment Exchange/directly recruited after obtaining N.A.C. from the Employment Exchanges, but has been working and has completed at least 10 years of continuous service, shall also be given preference for being considered for regular appointment, against the post; subject to all other things, viz-a-viz the other candidates, being equal and further subject to his/her fulfilling the following conditions:*

- i) the employee possesses the prescribed qualifications for the post;*
- ii) the work and conduct of the employee has been satisfactory.*

This may please be brought to the notice of all concerned for information and necessary action.”

5. In the above backdrop, learned State counsel though submits that in all likelihood, case of the petitioners would have been considered in accordance with the policy *ibid* and those found eligible would have been accorded the benefit, but there is no confirmation qua his submission.

6. Be that as it may, the writ petition is disposed of with a direction to the respondents that those of the petitioners, whose case till date has not been taken up for one reason or the other and the decision qua the same is still pending, an appropriate administrative orders be passed in compliance with the instructions dated 17.10.2002 issued by the Chief Secretary.

7. Needful exercise be carried out within four months.

8. Disposed of, accordingly.

9. Pending application(s), if any, be also disposed of.

26.05.2022

hemlata

Whether speaking/reasoned:

Whether reportable:

(ARUN MONGA)

JUDGE

Yes/No

Yes/No