

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

218 (04 cases)

(1) CWP-4070-2019

Khajani Devi

...Petitioner

Versus

State of Haryana and others

....Respondents

(2) CWP-4082-2019

Bhateri Devi

...Petitioner

Versus

State of Haryana and others

....Respondents

(3) CWP-4093-2019

Ved Kaur

...Petitioner

Versus

State of Haryana and others

....Respondents

(4) CWP-4154-2019

Sunder Devi

...Petitioner

Versus

State of Haryana and others

....Respondents

Date of Decision :29.11.2022

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.K. Malik, Advocate for the petitioner(s).

Mr. Sandeep Singh Mann, Addl. A.G. Haryana.

* * *

Harsimran Singh Sethi, J. (Oral)

By this common order, above mentioned four writ petitions are being disposed of as all the writ petitions involve same question of law and similar facts.

Learned counsel for the petitioners argues that the petitioners are working with the respondents for the last two decades but their services have not been regularized by the respondents and that too without any valid justification. Learned counsel for the petitioners submits that the petitioners are entitled for regularization of their services keeping in view the regularization policy issued by the Government of Haryana in the year 2011 according to which, part time employees were entitled for regularization of their services but the petitioners have not been granted the said benefit only on the ground that the petitioners though, working with the respondents for the last two decades but did not had qualification of 'ability to read and write Hindi'. Learned counsel for the petitioners further submits that though, 06 years service is required for regularization, which the petitioners already had but merely on the ground that as the petitioners are not able to read and write Hindi and hence, are not able to discharge the duties of the post of Mali, they have not been granted the benefit of regularization of their services by the respondents. Prayer of the petitioners is that impugned order dated 28.01.2019 (Annexure P/7) whereby, the benefit of regularization of

service has been declined by the respondents, may kindly be set aside and the respondents be directed to consider the claim of the petitioners for regularization of their services afresh.

Learned counsel for the respondents submits that the petitioners are raising their claim on the basis of one Makhan Singh, who was initially regularized in 2011 but now the said benefit of regularization has been taken away from him and he has been regularized from subsequent date. Learned counsel for the respondents further submits that the petitioner are working on the post of Mali whereas, the said Makhan Singh is working as Peon hence, there is no comparison inter se between them especially, when the petitioners though, having required service to their credit but they are not able to read and write Hindi, which is one of the requirement for regularization of service.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The petitioners are working for the last two decades with the respondents though, on part time basis. Nothing has come on record that the petitioners are only discharging their duties for one or two hours a day. Once, the petitioners are working as part time employees for the last 20 years, it can be safely presumed that there existed workload for the post on which the petitioners are working. Further, claim of regularization is to be considered as per the regularization policy, in view of the judgment of the Hon'ble Supreme Court of India in **Civil Appeal No.6798-2019** titled as **Prem Singh vs. State of Uttar Pradesh and others.** Hon'ble Supreme Court has held that keeping an employee on part time or not regularizing

his/her services, Hon'ble Supreme Court of India in **Secretary State of Karnataka vs. Uma Devi andn others 2006 (4) SCC 1** held that where 10 years service was required for regularization, the benefit of regularization must be given to an employee who is working for decades with the department. Relevant paragraph of the judgment is as under:-

“35. There are some of the employees who have not been regularized in spite of having rendered the services for 30-40 or more years whereas they have been superannuated. As they have worked in the work-charged establishment, not against any particular project, their services ought to have been regularized under the Government instructions and even as per the decision of this Court in [Secretary, State of Karnataka & Ors. v. Uma Devi 2006 \(4\) SCC 1](#). This Court in the said decision has laid down that in case services have been rendered for more than ten years without the cover of the Court's order, as one time measure, the services be regularized of such employees. In the facts of the case, those employees who have worked for ten years or more should have been regularized. It would not be proper to regulate them for consideration of regularisation as others have been regularised, we direct that their services be treated as a regular one. However, it is made clear that they shall not be entitled to claiming any dues of difference in wages had they been continued in service regularly before attaining the age of superannuation. They shall be entitled to receive the pension as if they have retired from the regular establishment and the services rendered by them right from the day they entered the work-charged establishment shall be counted as qualifying service for purpose of pension.”

Further, with regard to the plea of the respondents that the petitioners are not able to read and write Hindi, the petitioners are already working with the respondents as Mali for the last 20 years. That being so, the said impediment of not being able to read and write Hindi has not come in the way of discharging their duties especially, in view of the fact that the nature of duties being performed by a Mali are such that those do not involve reading or writing of Hindi. Hence, technical view should not be taken. Requirement of the policy should be seen, keeping in view the nature of the duties to be performed by a particular employee and its requirements. Nothing has been produced that even if, the petitioners are not able to read and write Hindi, there is any duty, which the petitioners have not been able to perform for the last 20 years. Once, the petitioners are performing their duties as part time Mali to the satisfaction of the department merely the ground that they are not able to read and write Hindi cannot be taken as a ground to deny them the benefit of regularization especially, when the petitioners are only to discharge the duties of Mali.

Keeping in view the above, impugned order 28.01.2019 (Annexure P/7) is set aside. Respondents are directed to consider the claim of the petitioners especially, in the light of the judgment of Hon'ble Supreme Court of India in **Prem Singh (supra)** and pass an appropriate order afresh within a period of 08 weeks from the date of receipt of copy of this order.

Cost imposed upon the respondents have already been paid by the respondents by way of demand drafts issued in the names of the petitioners, which drafts have been handed over to the learned counsel for

the petitioners for its onward transmission to the petitioners.

Writ petitions stand allowed in above terms.

Copy of this order be placed on the files of connected cases.

November 29, 2022

aarti

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No