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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-23847-2014

Date of decision: 18.05.2022

Mata Prasad (since deceased) through LR

...Petitioner

versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. B.S.Sudan, Advocate,
For the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Hapless widowed mother of the deceased employee, who died along with his hopes, is before this Court as her son died during pendency of the writ proceedings fighting for his arrears of salary in terms of the regularization letter dated 10.05.1996 (Annexure P-1).

2. *Inter alia*, issuance of a writ in the nature of certiorari is sought to quash order dated 23.06.2014 (Annexure P-8) vide which benefits of regularization of the services of the petitioner, have been declined.

3. Succinct facts first. Petitioner was appointed as Gardener on daily wage basis. Services of the petitioner were regularized vide letter dated 10.05.1996 (Annexure P-1). Haryana Civil Services (Revised Pay) Rules, 1998 came into force w.e.f. 01.01.1996 followed by Haryana Civil Services (Revised Pay) Rules, 2008 w.e.f. 01.01.2006. On 18.04.2013, petitioner served legal notice (Annexure P-2) demanding admissible salary and

allowances in terms of Rules, *ibid*. Petitioner then filed CWP No.15735-2013

in which directions to the respondents were issued by this Court vide order dated 24.07.2013 (Annexure P-4) to decide the representation of the petitioner within a period of 30 days. When no order was passed, another legal notice dated 28.10.2013 (Annexure P-6) was sent seeking compliance of the directions issued by this Court. Beleaguered and exasperated as petitioner, then was, filed contempt petition bearing COCP No.10 of 2014. During the pendency of the said contempt proceedings, respondent No.4 passed the impugned order dated 23.06.2014 (Annexure P-8) declining the benefits consequential to regularization of services of the petitioner. Hence, the instant petition.

4. During pendency of the writ proceedings, petitioner died and his legal representative i.e., widowed mother-Sunder Pata was later impleaded as party and she is now prosecuting the cause of her deceased son.

5. Piquant case it is. On one hand, petitioner was given the benefit of regularization but his gleefulness on being regularized turned out to be a complete moonshine, since he was never paid the salary in terms of his appointment letter dated 10.05.1996 (Annexure P-1). For ready reference same is as below:

Order

In pursuance of Haryana Government Notification No.6/38/95-2GSI dated 07.03.1996, the services of S/Shri Bachan Singh, Chowkidar and Mata Parshad, Mali of Panchayat Bhawan, Sonapat is hereby regularized w.e.f. 01.05.1996 on the following conditions:-

- 1. That their services are regularized in the pay scale of Rs.750-12-870-EB-940.*
- 2. That they will be on probation for a period of one year which can be extended under the rule.*
- 3. Their salary will be drawn from the funds of Panchayat Bhawan, Sonapat.*
- 4. That their seniority shall be determined w.e.f. 01.05.1996.*

5. *That it is subject to the verification of their Character & antecedents and the production of Medical Fitness certificate signed by the C.M.O.*

Sonepat

Dated 10.05.1996

Sd/-

*Deputy Commissioner-cum-Chairman,
Panchayat Bhawan Committee, Sonepat.*

6. Perusal of the appointment order dated 10.05.1996 *ibid* issued at the time of regularization of the petitioner, in no uncertain terms states that he shall be entitled to salary in the pay scale of Rs.750-12-870- EB-940. It clearly stipulates that salary will be drawn from the funds of Panchayat Bhawan, Sonepat. It transpires that aforesaid letter in this regard was marked to all concerned by the Deputy Commissioner-cum-Chairman, Panchayat Bhawan Committee, Sonepat.

7. Writ petition is accordingly disposed of with a direction to respondent No.4 i.e., Deputy Commissioner, in his capacity as ex officio Chairman of Panchayat Bhawan Committee, Sonepat, to strictly comply with the aforesaid terms of appointment of the petitioner and all arrears of salary be paid from the date of regularization i.e., 10.05.1996 along with interest @6% per annum.

8. It is made clear that it shall be no excuse that there are no funds. Petitioner cannot be faulted with paucity of funds once the appointment letter has been issued to him by one of the department head of the State.

9. I do not find any substance in the argument of learned State Counsel that though Deputy Commissioner is the Chairman of the Panchayat Bhawan Committee but the same does not come under the management and control of the State.

10. He further submits that the petitioner was appointed as ‘Gardener’ in Panchayat Bhawan Committee, Sonapat which is a public property. Per contra, learned counsel for the petitioner points out that District Panchayat Committees were constituted after abolishing the Zila Parishads and on abolition thereof, properties/assets of the Zila Parishads were devolved on the State Government.

11. Having perused the relevant provisions of the Punjab Panchayat Samitis and Zila Parishads, Haryana Amendment Act 1973, I am in agreement with the argument canvassed by the learned counsel for the petitioner. In fact, what has been urged by learned State counsel flies in the face of Section 61 of the Act, which is extracted hereinbelow:-

“Section 61 - Abolition of Zila Parishads

(1) On and from the commencement of this Act the existing Zila Parishads shall stand abolished.

(2) On the abolition of a Zila Parishad under sub-section (1), all assets vesting in it and all liabilities subsisting against it on the date of abolition under the principal Act or any other law for the time being in force shall devolve on the Government.

(3) All suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the Zila Parishad immediately before the abolition of the Zila Parishad concerned in relation to any matter may be continued or instituted by or against the Government.”

12. A perusal of the above leaves no manner of doubt that the properties/assets of Zila Parishads since vest with the State Government, I see no reason as to why the burden of salaries of all the employees deputed for maintenance of the State property be not borne by the State.

13. Arrears be paid to the mother of the deceased within a period of 3 months from today, along with interest.

14. Disposed of accordingly.

(ARUN MONGA)
JUDGE

May 18, 2022
vandana

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