

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

Date of decision: 11.05.2022

CWP-27417-2016

Madan Lal ...Petitioner

Vs.

State of Haryana and others ...Respondents

CWP-27416-2016

Shakuntla Devi ...Petitioner

Vs.

State of Haryana and others ...Respondents

CWP-27426-2016

Raj Rani ...Petitioner

Vs.

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr.D.S.Nain, Advocate,
For the petitioner(s).

Mr. SaurabhMohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Above titled bunch of 03 petitions is being disposed of vide common order since facts as well as issues involved therein are similar.

2. Succinct factual narrative first. For the sake of brevity, same is being taken from CWP-27417-2016.

3. Petitioner was appointed as a 'Sweeper' on part time basis for 89 days in January, 1986 on consolidated salary. He has been working since last 29 years. Government of Haryana issued Policy dated 01.02.1999 (Annexure P-1) vide which those who had completed minimum 5 years' continuous service as on 01.02.1999 were held entitled to be regularized. Thereafter,

Government of Haryana framed policies dated 17.10.2002 and 29.07.2011 (Annexures P-2 and P-3) respectively vide which those who had completed minimum 10 years' continuous service as on 10.04.2006 were held entitled to be regularized.

4. Learned counsel for the petitioner(s) submits that petitioner had completed 20 years of service on 10.04.2006, therefore, he is entitled to regularization. Petitioner made a representation dated 01.02.2013 (Annexure P-4) followed by legal notice dated 24.05.2013 (Annexure P-5) and another representation dated 30.06.2013 (Annexure P-6). Vide impugned order dated 08.08.2013 (Annexure P-8), his claim for regularization was rejected on the ground that there is no sanctioned post. Hence, the writ petition.

5. In the aforesaid backdrop, *inter alia*, issuance of a writ in the nature of Certiorari has been sought to quash the impugned order dated 08.08.2013 (Annexure P-8) vide which claim of the petitioner for regularization has been rejected.

6. Concededly, petitioner in CWP-27417-2016 has been in continuous service since 1986 and petitioners in CWP No.27416 and 27426-2016 have been in incessant service since 1995 as there cannot be a better proof of requirement of the service on the post in question and, therefore, the insipid argument that post has not been sanctioned is purely an administrative ruse to deny the petitioners what they are otherwise legitimately entitled to.

7. In any case, the sanctioned post not being available is also not a valid justification as the position in this regard is no more *res integra*. Reference may be had to an Apex Court judgment in case titled “**Nihal Singh**

and others Vs. State of Punjab and others” reported in (2013) 14 SCC

65. Relevant para is reproduced herein below for ready reference:

“21. But we do not see any justification for the State to take a defence that after permitting the utilization of the services of large number of people like the appellants for decades to say that there are no sanctioned posts to absorb the appellants. Sanctioned posts do not fall from heaven. State has to create them by a conscious choice on the basis of some rational assessment of the need.”

8. In view of the aforesaid, writ petitions are allowed. Respondents are directed to process the case of the petitioners as per the regularization Policy dated 29.07.2011 (Annexure P-3) since indisputably as on the date of aforesaid policy coming in operation, petitioners had already rendered more than 16 years of service. However, petitioners shall though be entitled to monetary benefits but same are confined to 38 months prior to filing of the writ petition.

9. Needful be done within a period of 3 months from today.

10. Allowed in the aforesaid terms.

11. Pending application, if any, shall also stand disposed of.

12. Photocopy of this order be placed on the connected case files.

(ARUN MONGA)
JUDGE

11.05.2022

vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No