

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

**(225) CWP-23147-2018
Date of Decision : December 13, 2022**

Sombir Singh .. Petitioner

Versus

State of Haryana and others .. Respondents

(225-A) CWP-24321-2018

Bajrang Kumar .. Petitioner

Versus

State of Haryana and others .. Respondents

(243) CWP-20669-2020

Surinder Singh .. Petitioner

Versus

State of Haryana and others .. Respondents

(243-A) CWP-20783-2020

Sushila Devi and another .. Petitioners

Versus

State of Haryana and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

**Present: Mr. Sumit Sangwan, Advocate, for the petitioner
in CWP No.23147 of 2018.**

**Mr. N.K. Vashist, Advocate, for the petitioner
in CWP No.24321 of 2018.**

Ms. Jaishree Kaushik, Advocate, for
Mr. Ajay Chaudhary, Advocate, for the petitioners
in CWPs No.20669 and 20783 of 2020.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

By this common order, four writ petitions, the details of which have been given in the heading, are being disposed of as all the petitions involve the same question of law on similar facts.

The grievance of the petitioners in the said writ petitions is vis.a.vis the orders of the respondents de-regularizing their services on the ground that the order regularizing the services of the petitioner passed by the Principal concerned, has been withdrawn as the said benefit was extended to the petitioners by the Principal concerned without going through the actual policy as well as the seniority of the part time employees, who were working with the Department.

Learned counsel for the petitioners submit that the benefit of regularization extended to the petitioners is perfectly valid and legal and once the petitioners have enjoyed the benefit for a sufficient number of years, the respondents cannot turn back and withdraw the said order.

After notice of motion, the respondents have filed the reply wherein, the respondents have stated that the employees, who are working on part time basis and were appointed prior to the petitioners, had approached this Court through various writ petitions raising grievance that the regularization of the services of the employees has been done by the respondents by totally pick and choose method ignoring the seniors and granting the benefit of regularization of service to the juniors, after which

under the orders of the Court, the respondents examined the case of the

employees for the purpose of regularization keeping in view the regularization policy dated 11.11.2003 and the seniority list prepared in pursuance to the said policy.

As per the respondents, according to the respective seniority list of the petitioners, they are junior and there are less sanctioned posts and seniors of the petitioners are still awaiting the regularization of their services, therefore, the benefit of regularization extended by the Principal concerned by ignoring the seniority as well as the terms and conditions as envisaged in the regularization policy, was withdrawn. It is submitted that the petitioners were not entitled for regularization of their services as large number of employees senior to the petitioners were still awaiting the benefit of regularization, which benefit could not be extended to them due to less number of sanctioned posts. The same has been illustrated through the seniority list of some of the petitioners namely Sombir Singh, Bajrang Kumar, Sushila Devi and Subhash, who fall at Sr. No. 794-A, 744, 632 and 433 of their respective seniority list.

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

The regularization policy has to be implemented by adhering to the terms and conditions envisaged therein. A candidate is required to possess the essential ingredients of the policy in order to claim the regularization. In the present petitions, the petitioner Sombir Singh and Bajrang Kumar have raised claim under regularization policy issued on 30.12.1998/25.02.1999.

The first thing, which is to be seen is whether the said policy is applicable upon the said petitioner(s), who were concededly not even the

employees of the Department on the date of issuance of the policy. It is a conceded position that both the petitioners joined much after the issuance of the said policy dated 30.12.1998/25.02.1999, according to which, three years service was needed in case of the part time candidates, who have been recruited through employment exchange and six years for those, who were recruited otherwise but were working on part time basis. On the date of issuance of the policy, question of fulfilling the said criteria does not arise as the petitioner(s) were not even in the service of the respondent-Department at the said relevant time, hence, the petitioner(s) have not been able to project as to how their case is covered under the policy in which their services were regularized by the Principal concerned.

Further, as per regularization policy of the year 2003 dated 11.11.2003, the respondents were to frame a seniority list of class IV employee working in each District so as to identify, who were entitled for regularization of their services keeping in view the number of sanctioned post available. For the said purpose, the respondents have presented before this Court that the petitioners are junior in seniority and there are seniors of petitioners, who are still awaiting the regularization of their services. That being so, the grant of benefit of regularization of service to the petitioner(s) by the Principal concerned ignoring the claim of the seniors, cannot be treated as a valid order, hence, no grievance can be made by the petitioner(s) on this aspect.

Learned counsel for the petitioner(s) submits that the petitioner(s) are still in service and the order de-regularizing their service was passed in the year 2018 and more than four years have elapsed wherein, a number of part time employees, who were senior to the petitioner(s) have

attained the maximum age of superannuation or are not working, hence, the respondents be directed to consider the claim of the petitioner(s) afresh for regularization of their services keeping in view number of regular sanctioned post available coupled with the seniority position of the part time workers working in the particular District.

Keeping in view the above, the respondents-State is directed to give due consideration to the claim of the petitioner(s) for regularization of their services in case, as of now, the Department has sufficient number of regular sanctioned posts in the District, in which the petitioner(s) are working and as per the existing regularization policy, the claim of the petitioner(s) is covered for their regularization.

Let appropriate order of the said consideration be passed within a period of eight weeks of the receipt of the copy of this order and in case, it is found feasible to regularize the services of the petitioner(s), the said benefit be extended to them within a further period of four weeks.

All the writ petitions are allowed in above terms.

A photocopy of this order be placed on the file of other connected cases.

December 13, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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