

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.220

CWP No.4680 of 2017

Date of Decision: 28.07.2022

Balli Devi

.... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ajay Chaudhary, Advocate
for the petitioner.

Mr. R.S.Budhwar, Addl. A.G.Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, the grievance of the petitioner is that her husband, who had rendered approximately 20 years of service prior to the date he died while in service, was not regularized though, the same benefit has already been extended to the similarly situated persons by the respondents themselves in the year 2003 and by this Court to the similarly situated persons while passing order in **CWP No.17150 of 2015** as well as in **CWP No.22798 of 2015**, hence, the husband of the petitioner needs to be treated as a regular employee on the date he died, so as to entitle the petitioner, who is the legal heir, the benefit in respect of the service rendered by her late husband.

The facts mentioned in the petition are that the husband of the petitioner namely Subhash, was appointed as Mali-cum-Beldar on 01.01.1996 on daily wages with the respondent department. While he was working on daily wage service, the State of Haryana issued regularization policy on 01.10.2003, according to which, an employee who has completed

three years of service as on 30.09.2003, is entitled for the regularization of the service. Though, the claim of the similarly situated employees was considered by the respondent but some of the employees who though were also entitled for the same benefits, but were not granted. The petitioner's husband was also not extended the benefit of regularization though, eligible under the regularization policy dated 01.10.2003.

As the respondents had not extended the benefit to certain eligible persons, the husband of the petitioner along with others filed a writ petition bearing CWP No.5409 of 2013 titled as **Kuldeep and others versus State of Haryana**, claiming the benefit of regularization. The said writ petition was disposed of by this Court vide order dated 14.03.2013 directing the respondent to consider the claim of the petitioners in **Kuldeep's case (supra)** with regard to the regularization of their services. Thereafter, the respondents passed an order dated 20.06.2013 (Annexure P-5) declining the benefit of regularization to the petitioners in CWP No.5409 of 2013, which included the petitioner's husband.

Unfortunately, the husband of the petitioner died while in service on 20.09.2015. The similarly situated employees, who were petitioners in **Kuldeep's case (supra)** along with the husband of the petitioner, again approached this Court by filing CWP No.22798 of 2015 titled as **Kuldeep and others versus State of Haryana and others**, claiming the benefit of regularization. Another bunch of similarly situated employee also filed a writ petition bearing CWP No.17150 of 2015, claiming the same benefit. Both the petitions were taken up for consideration by the Coordinate Bench of this Court and allowed. The employees were held entitled for regularization of their services under the regularization policy dated

01.10.2003. Ultimately, the respondents complied with the said directions by passing an order dated 06.07.2018, but the benefit of regularization to the husband of the petitioner was not extended on the ground that he had already died prior to the passing of the order dated 06.07.2018 and moreover, he was not party to the writ petition bearing CWP No.22798 of 2015 as well as CWP No.17150 of 2015, decided by the Coordinate Bench of this Court.

Feeling aggrieved of the said action, the petitioner has also impugned the order dated 20.06.2013 (Annexure P-5) in the present petition, which was under challenge in CWP No.22798 of 2015. The prayer of the petitioner is that once the similarly situated employees to that of the husband of the petitioner have been found entitled for regularization, the same benefit be extended to her husband and be treated as a regular employee from the year 2003 and the petitioner be granted the consequential benefits.

After notice of motion, the respondents have filed reply and stated that the claim of the petitioner that her husband was working from 1996 is not correct and according to the respondent, he joined in June, 2000. The further objection raised by the learned counsel is that the husband of the petitioner never challenged the order dated 20.06.2013 (Annexure P-5) while he was alive and after his death, the petitioner can not claim the benefit in respect of the same.

It is a matter of fact that similarly situated employees have been allowed the benefit of regularization by the Coordinate Bench of this Court in CWP No.17150 of 2015 as well as CWP No.22798 of 2015, decided on 24.01.2017. It is not denied by respondents that the husband of the petitioner was a party in CWP No.5409 of 2013 along with other similarly situated employees and though, the similarly situated employees who had also

challenged the order dated 20.06.2013 (Annexure P-5), have been found entitled for the relief of regularization of their services and their services have already been regularized by the respondent vide order dated 06.07.2018, a copy of which has been appended as Annexure P-14.

Once, a similarly situated employee has been extended the concession of regularization and that too with effect from the date when the late husband of the petitioner was in service, the said benefit can not be declined to the late husband of the petitioner merely on the ground that he had died by the date the benefit was extended by this Court or the said order of the Court was complied by the respondent vide order dated 06.07.2018. Nothing has been brought to the notice of this Court that husband of the petitioner was not similarly situated with the petitioners in CWP No.17150 of 2015 as well as CWP No.22798 of 2015, decided on 24.01.2017. That being so, husband of the petitioner is also entitled for the regularization of his service w.e.f. 01.10.2003 as being granted to the similarly situated employees.

As far as the argument of learned counsel for the respondent that the late husband of the petitioner was not appointed in 1996 but in June, 2000, the same is of no consequence keeping in view the the prayer of the petitioner seeking regularization of the service of her late husband. As per regularization policy of 2003, an employee who has three years of service as on 30.09.2003, is entitled for the grant of benefit of regularization. Even, if the services of the late husband of the petitioner is taken to be from June, 2000, still he completes three years as on 30.09.2003. That being so, the argument of the learned State counsel that the claim of the petitioner with regard to the regularization of the services of her late husband is distinct

from the similarly situated employees, can not be accepted and is accordingly declined.

Learned counsel for the petitioner submits that keeping in view the above, the late husband of the petitioner be treated as regular employee for all intents and purposes w.e.f. 01.10.2003 onwards. Learned counsel for the petitioner has undertaken that the petitioner will not claim the benefit of arrears of difference of salary upto the death of her husband, but be granted the arrears of pension and other pensionary benefits from the date the late husband of the petitioner died, along with arrears.

Keeping in view the above, the respondents are directed to treat the late husband of the petitioner as a regular employee and refix his salary upto the date of his death and thereafter, compute the pensionary benefits for which the petitioner is entitled for in respect of the service rendered by the late husband of the petitioner and release those benefits in her favour. Further, the petitioner be paid the family pension starting from the date of death of her husband and all the arrears of the pension be released to her within a period of two months from the receipt of copy of this order.

(HARSIMRAN SINGH SETHI)
JUDGE

28.07.2022
Maninder

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