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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-4463-1997 (O&M)

Date of Decision: 09.10.2023

SUKHWINDER KAUR AND ANOTHER

.....Petitioner

V/s.

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA.

Present Ms Harpreet Kaur, Advocate,
for Mr. Navkiran Singh, Advocate
for the petitioners.

Mr. D.K. Singal, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J (Oral)

1. Learned counsel appearing on behalf of the petitioners pleads for granting her time. However, as this case is of the year 1997, hence, this Court does not deem it appropriate to adjourn this case.

2. Learned counsel appearing on behalf of the petitioners was asked to assist the Court but has expresses her inability. In the circumstances, this Court has perused the order(s) impugned in this Writ Petition and finds that the petitioner has challenged the order dated 08.01.1997 whereby services of both the petitioners were regularized after completion of 10 years service. The case of the petitioners is that they have been working without break since they were initially appointed on 01.10.1986 and 01.11.1986 respectively as Bill Clerk-cum-Ledger Keepers. It is submitted that their services ought to have been regularized and regular salary ought to have been paid to them on completion of 5 years' of service keeping in view the judgment passed by the Division Bench of this Court

dated 26.09.1988 in CWP-4750-1988, whereby it was directed to regularize the services on completion of 5 years of service.

3. I have considered the submissions of learned counsel for the petitioners.

4. In “**Secretary, State of Karnataka and Others Vs. Umadevi (3) and Others**” ; 2006 (4) SCC 1., the Supreme Court has held as under:-

“53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappal, R.N. Nanjundappa and B.N. Nagarajant and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases abovereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.”

5. In view thereof, the directions are for regularizing services of the Daily Wagers, who are continuously performing their duties for a period of 10 years. Keeping in view the said directions, the Policy had been laid

down and the petitioners service had been regularized on completion of 10 years of service. No further relief is granted to the petitioner. The claim of the petitioner, which is based on the judgment passed by the High Court, is misplaced as the judgment passed by the Hon'ble Supreme Court shall prevail. Keeping in view thereto, the Writ Petition is dismissed. However, the petitioners' regularization on completion of 10 years service stands confirmed.

6. All pending applications filed in this Writ Petition shall stand disposed of accordingly.

October 9, 2023

Ess Kay

**[SANJEEV PRAKASH SHARMA]
JUDGE**

Whether speaking / reasoned : *Yes/No.*

Whether Reportable : *Yes/No*