

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 6340 of 2006(O&M)
Date of decision: 25.04.2023

Gulab Devi

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rai Singh Chauhan, Advocate,
Mr. Rohit Sapehiya, Advocate and
Ms. Deepika Chauhan, Advocate
for the petitioner.

Mr. R.K.Kapoor, Addl.A.G., Punjab

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is the widow of late Sh. Jagan Nath. She prays for the issuance of a writ in the nature of certiorari to quash the order dated 15.02.2006 (Annexure P-4) issued by the Executive Engineer, Water Supply and Sanitation (RWS) Division, Talwara, by which the regularization order of the services of her deceased-husband has been recalled.

2. In order to comprehend the controversy involved, it would be appropriate to notice certain brief facts:

It is admitted case that the petitioner's husband late Sh. Jagan Nath @ Jagar Nath was appointed as a Patrolman on 01.02.1986. He continued to work as such on daily wage basis. On 23.01.2001, the State Government came out with a policy to regularize the services of daily wage workers, who has completed 3 years of service. The Department after

considering the petitioner as well as Sh. Surjit Singh for regularization, forwarded their names to the higher officials. However, before effective order could be passed, on 12.12.2002, her husband died on 01.02.2001. Subsequently, vide order dated 12.12.2002, the services of the husband of the petitioner were regularised which was subsequently recalled vide order dated 15.02.2006 (Annexure P-4). The petitioner claims that as per the policy, the services of the her husband were correctly regularised, hence she should not be deprived of the benefits flowing therefrom.

3. On the other hand, the learned counsel representing the State of Punjab, while contesting the writ petition, claims that regularization of service will not take effect retrospectively and in the year 2002, the petitioner's husband was not alive. Hence, the order of regularization was, in fact, non est in the eyes of law.

4. This court has considered the submissions while analyzing the arguments of the learned counsel representing the parties.

5. In ordinary circumstances, the services of the husband of the petitioner were regularised rather, in fact, regularised by the competent authority. No doubt, the petitioner's husband died before that date. However, the policy adopted by the State makes the employee eligible to be considered for regularization after completion of three years continuous service. In the present case, the petitioner's husband served the State for 15 years. Sh. Surjit Singh, who was subsequently appointed when compared with the husband of the petitioner has been given the benefit of regularization. A Division Bench in **Sita Devi vs. State of Punjab and otehrs** (Civil Writ Petition NO.2467 of 2005, decided on 16.09.2008)

allowed the identical writ petition after noticing that the event of death of temporary worker should not deprive the family of the consequential benefits.

6. Keeping in view the aforesaid facts, the writ petition is allowed. The services of the husband of the petitioner shall be deemed to have been regularized immediately prior to the date of his death. The respondent-State is directed to release all the consequential retrial benefits in accordance with law, within one month, from today.

7. All the pending miscellaneous applications, if any, are also disposed of.

April 25, 2023
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(ANIL KSHETARPAL)
JUDGE

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