

260 (2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-12850-2020 (O&M)

Date of Decision: 11.12.2023

JOGINDER SINGH AND ANOTHER

.....Petitioners

V/s.

STATE OF PUNJAB AND ANOTHER

.....Respondents

CWP-21148-2020 (O&M)

MEENA KUMARI

.....Petitioner

V/s.

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Gunjan Mehta, Advocate for the petitioners.

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

SANJEEV PRAKASH SHARMA, J. (Oral)

1. This order shall dispose of these connected Writ Petitions as the issue involved in both the Writ Petitions is common.

2. Both the counsel are *ad-idem* that the issue raised in these Writ Petitions would stand covered by the judgment passed by this Court in **Mandeep Singh and another Vs. State of Punjab and another**, CWP No.7096 of 2002, decided on 06.02.2012.

3. The short claim of the petitioners is that they are working on ad-hoc basis on various posts of Class-IV. The respondents had issued a policy for regularization on 18.03.2011, laying down guidelines for regularizing the services of the contractual employees on the condition that the employees who are working against the regular posts on contract basis and whose appointments had been made in a transparent manner after taking

into consideration their qualifications and after following the procedure, their services be regularized w.e.f. 01.04.2011 or on completion of three years of service on contract basis, whichever is later.

4. The said policy was made applicable to certain Departments of the State Government, however, the Department of Excise and Taxation was not included in the said policy. Similarly, some other Departments were also left out from consideration. Thereafter, several Writ Petitions came up before this Court challenging the said Policy of excluding particular Departments and in the case of Mandeep Singh (*Supra*), this Court directed the respondents to consider the case for regularization of service on assumption that the petitioner therein was in continuous service. In Mahavir Singh Vs. State of Punjab and others, CWP-24735-2015, decided on 19.04.2017, the Court held as under:-

“8. The Government of Punjab took a one time policy decision dated 18.03.2011 for regularization of the services of the employees who have completed three years service. This policy covered the daily wagers, work-charged, contractual employees working on permanent posts appointed after fulfilling eligibility criteria as per procedure. The only defence raised herein is that the Government in its policy dated 18.03.2011 has made it applicable to certain departments and the same is not applicable to employees working in the Sports Department. No special reason has been given as to why the Sports Department has been excluded from the purview of the policy which appear to be restricted to departments of Forest, Health Technical Education, Urban Local Bodies.

9. A Single Bench of this court in Civil Writ Petition No. 24337 of 2012 decided on 17.08.2015 titled *Shri Pal And Others*

Versus State Of Punjab And Others has held that the exclusion of employees of certain departments from being entitled to the benefits of the regularization policy of 2011 is unfair discriminatory and violative of Article 14 of the Constitution of India. Indeed, there is no such reasonable criteria forthcoming as to why this pick and choose policy has been adopted. Once a decision is taken to extend the benefit of regularization to employees of certain departments, other have to be treated equally.”

5. The view expressed by the Coordinate Benches was challenged before the Division Bench. However, the LPA No.163-2021 was rejected by the Division Bench on 10.02.2021. Against the same, SLP No.12498-2021, was filed before the Hon’ble Supreme Court, which came up for hearing before the Court on 24.11.2023 and the Hon’ble Supreme Court held as under:-

“In view of the fact that the respondents herein have been working from October, 1993, December, 1994 and August, 1997, in the facts and circumstances of the instant case, we are not inclined to interfere with the impugned order of the High Court. However, any question of law that may arise for consideration, is kept open to be considered in a subsequent case.”

6. Keeping in view the above, this Court finds that the case of the petitioners’ cannot be distinguished on facts and accordingly, the Writ Petitions are allowed in the same terms as in the case of **Mandeep Singh** (supra) and the respondents are directed to consider the case of the petitioners for regularization in terms of policy dated 18.03.2011 and pass suitable

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orders within three months henceforth. Benefit under the said Policy of arrears of salary etc. shall be released within the aforesaid period.

7. All the pending applications shall stand disposed of accordingly.

December 11, 2023

Ess Kay

[SANJEEV PRAKASH SHARMA]

JUDGE

Whether speaking / reasoned	:	Yes	/	No
Whether Reportable	:	Yes	/	No