

245

2023:PHHC:129451

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17565-2019

Date of decision : 05.10.2023

Duni Chand

....Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Gurbachan Singh, Advocate
for the petitioner.

Mr. T.P.S.Walia, AAG, Punjab.

Mr. Aditya Pratap Duggal, Advocate
for respondent Nos.2 to 4.

DEEPAK MANCHANDA, J.(Oral)

This writ petition under Articles 226/227 of the Constitution of India has been filed for the issuance of a writ in the nature of certiorari for quashing the order dated 30.04.2018 (Annexure P-4) passed by respondent No.4, whereby the service of the petitioner has been illegally terminated without issuing any prior notice. Further, prayer is for a writ of mandamus directing the respondents to regularize the service of the petitioner against the regular posts in the regular grade as per Punjab Government Policy/Instructions.

It is the case of the petitioner that he was appointed as part time sweeper on 13.03.2007 with respondent-corporation. On 04.03.1999, the

petitioner had applied for regularization of services as per letter No.10213/10872/2P-6V:2 dated 22.01.2010 issued by Punjab State Electricity Board, however, claim of the petitioner was not considered. On 24.01.2017, the Punjab Government issued a letter to all the departments not to fill up the sanctioned post on contract basis. However, vide impugned order dated 30.04.2018 (Annexure P-4), the service of the petitioner was terminated by respondent No.4 without issuing any prior notice.

Learned counsel for the petitioner submits that case of the petitioner is squarely covered by the ratio of law laid down in CWP-22798-2016, titled as “**Lal Singh and others Vs. The State of Punjab and others**” decided on 03.05.2023 and prays that present petition may be disposed of in the same terms.

On the other hand, learned counsel for the State and respondent Nos.2 to 4 do not dispute the assertion made by learned counsel for the petitioner. It is further submitted by learned counsel for respondent Nos.2 to 4 that LPA No.95-2019 has also been dismissed vide judgment dated 23.12.2022. Subsequently, the said judgment was also challenged before the Hon’ble Supreme Court and the same has also been dismissed.

I have heard learned counsel for the parties and have gone through the case file carefully.

The case of the petitioner is squarely covered by the aforesaid judgment dated 03.05.2023. The operative paragraph of the judgment reads as under:-

“4. Counsels do not dispute that the issue with respect to

regularization of workers working with PSPCL has already been considered in detail elaborately by Division Bench in the case of ***Punjab State Power Corporation Ltd. & ors. Vs. Surinder Singh & ors.*** Bearing LPA No.95 of 2019 decided on 23.12.2022 wherein the Division Bench held as under:-

“Thus, once Powercom itself accepted its liability, it is for it to comply with the directions issued by the learned Single Judge. Accordingly, the present appeals are dismissed with the following directions:-

(i) That the Powercom shall firstly consider all employees including those of the erstwhile PSEB for regularization of employees who were working with it for a period of 10 years as on 10.04.2006 in view of the judgment in Uma Devi's case (supra) without any bar whether they were employed through employment exchange or through open advertisement in the press as they can be considered as irregular appointments on account of the length of the service.

(ii) Secondly, on account of the adoption of the policy on 07.05.2014, the employees are entitled for a writ of mandamus for similar consideration as per the policy dated 04.03.1999 and, therefore, the employees who had completed 10 years and had the requisite 80% attendance on 10.04.2006, would be necessarily considered and the stand that it would only be prospective from the date of adoption on 07.05.2014 is rejected.

(iii) Resultantly, the notice dated 02.02.2018 whereby the decision was taken to outsource the part time employees without adjusting them and regularizing their services in pursuance of the directions of the Apex Court in Uma Devi's case (supra) is also held to be bad and illegal.

The needful be done within a period of 2 months by reconsidering them for regularization from the date of receipt of certified copy of the judgment.”

5.Learned counsel for the petitioners submits his satisfaction, in case claim of the petitioners is also considered by the respondent-Corporation in terms of the aforesaid orders.

6.Learned counsel for the respondent-Corporation is not opposed to such reconsideration. Needless to say the claim of the petitioners would be considered strictly in terms of the directions issued by Hon'ble Division Bench.

7.In case the claim of the petitioners merits acceptance, the consequential relief would be granted on or before 31.12.2023. However, in case the respondent-Corporation feels that the claim of the petitioners sans merit, the same shall be adjudicated by passing a speaking order in accordance with law after granting personal hearing to such petitioners within

the time period as stipulated hereinabove.
8.Till the claim of the petitioners is adjudicated by the
respondent-Corporation, status quo qua their employment shall
be maintained.
9.Petition stands disposed off.”

In view of the above, case of the petitioner is squarely covered
by the aforesaid judgment dated 03.05.2023 passed in Lal Singh’s case
(supra) and the present petition is disposed of in the same terms.

05.10.2023

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(DEEPAK MANCHANDA)

JUDGE

Whether speaking/reasoned :

Whether Reportable :

Yes

Yes

No

No