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2023:PHHC:143972

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-2047-2013 (O&M)

Date of decision : 14.11.2023

Kamaljit and others

Petitioners

Vs.

State of Punjab and others

Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Inayat Khullar, Advocate
for the petitioners.

Mr. Arun Gupta, AAG, Punjab
for respondent Nos.1 and 2.

Ms. Anu Chatrath, Sr.Advocate with
Ms. Divya Sharma, Advocate
for respondent Nos.3 and 4.

DEEPAK MANCHANDA, J.

1. The petitioners have filed present writ petition under Articles 226 & 227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing of show-cause-notice/order dated 15.06.2012 (Annexure P-6) issued by the Commissioner, Municipal Corporation, Jalandhar, whereby appointment letters issued to them were withdrawn. Further, the prayer has been made for directing the respondent No.3 to pay salary to the petitioners w.e.f.26.04.2012 i.e. the date of joining on the post of Mali in accordance with the pay scale as prescribed in the appointment letter dated 26.04.2012.

2. The facts in brief leading to the present petition are that the petitioners were working as Mali with the Municipal Corporation, Jalandhar

under the Matching Grant Scheme of the Government at a consolidated salary of Rs.1000/- per month for maintenance of parks. The petitioners represented to the respondent-Corporation for regularizing their services and for grant of regular pay-scale to them. Considering the same, the respondent-Corporation passed a Resolution to fill up the said posts of Mali (Annexure P-1) and accordingly issued appointment letters dated 26.04.2012 to the petitioners granting them regular pay-scale (Annexure P-2). In pursuance to the appointment letters, the petitioners joined as Mali with the respondent-Corporation after following the due procedure as mentioned in the appointment letters. As the petitioners did not receive any salary from the respondent-Corporation since the date of their appointment on regular basis, therefore, representations dated 27.07.2012 (Annexure P-4) and 11.09.2012 (Annexure P-5) for release of salary were submitted before the respondent-Corporation. However, vide letter dated 15.06.2012 (Annexure P-6) issued by the respondent-Corporation, it was communicated to the petitioners that as appointment letter dated 26.04.2012 issued to the petitioners contain some discrepancies, therefore, the same stands withdrawn/cancelled. Hence the present writ petition.

3. Learned counsel for the petitioners contends that petitioners were appointed as Mali on probation period of two years with the respondent-Corporation, however, vide a letter dated 15.06.2012 (Annexure P-6) issued by respondent-Corporation, the letter dated 27.04.2012 issued with regard to appointment for the post of Mali was withdrawn, to which Employees Coordination Committee, Municipal Corporation, Jalandhar moved a representation dated 29.06.2012 (Annexure P-7) requesting therein to withdraw

the show cause notices issued by the respondent-Corporation. He further contends that show cause notice dated 15.06.2012 being illegal is liable to be set aside and further the petitioners be paid salary w.e.f.26.04.2012 i.e. the date of joining on the post of Mali.

4. Per contra learned senior counsel representing respondent No.3 submits that prayer made in the present petition is to pay salary to the petitioners i.e. from the date of joining on the post of Mali in accordance with the pay scale as prescribed in the appointment letter dated 26.04.2012. She clarified that appointment of the petitioners was made under the scheme and their services were engaged on consolidated salary of Rs.2000/- per month, out of which, as per the scheme a grant of Rs.1,000/- was to be given by the Corporation-respondent No.3 to the Society, which contributes another sum of Rs.1,000/- from its own funds for payment to the Malis employed by the Society on part time basis. She further submits that as per letter dated 14.11.2011, two decisions were taken i.e. to regularize sanitary workers, who are working on 01.04.2008 and secondly, as per Uma Devi's judgment of the Hon'ble Apex Court to regularize, who had completed ten years of service in the year 2006, but the petitioners' claim did not fall in either of these categories. Accordingly the appointment letter issued were withdrawn being *void ab initio*, which were not in conformity with the instructions dated 14.11.2011 (Annexure R-3/C). She also submits that as far as payment of salary is concerned, petitioners were engaged as part time Mali and they have already received their salaries from their respective societies, who had engaged them and the payment of salary was made in accordance with Matching Grant from Municipal Corporation as per provisions of government policies issued in

the year 2000. She prays that present petition is misconceived and deserves to be dismissed.

5. I have heard learned counsels for the parties and have perused the material available on record.

6. A perusal of record reveals that the petitioners were appointed as part-time Mali in the year 2000-2004 on consolidated salary of Rs.2,000/- per month out of which 50% was to be borne by the Welfare Societies and Matching Grant of Rs.1,000/- was to be paid by the Municipal Corporation. The object of the scheme was to engage the services of petitioners as part-time/adhoc Mali, as there was no commitment to regularize their services, even as per the pleadings, the petitioners have claimed their rights as part-time/adhoc employees only. The same is well established from the Resolution passed by the Corporation. Even while communications sent by the State for recommending the petitioners, nothing as such was mentioned to support the claim of the petitioners for regularization.

7. Further, as per order dated 15.06.2012 (Annexure P-6), the petitioner No.1 was appointed on the post of Mali for a probation period of two years, whereafter inquiring the matter, the Municipal Corporation cancelled the appointment letters on the ground that the said appointment letters were issued in haste without considering the Rule/Government Instructions. Accordingly, the same were withdrawn. Since an irregularity cropped up while selecting the petitioners and the entire selection was declared as bad in the eyes of law, hence, petitioners being not eligible whose services were withdrawn along with the other similarly situated employees from the post of Mali, who were appointed as daily wagers under a particular scheme.

8. Even otherwise, the issue of regularization sought by other similarly situated petitioners, who were appointed under the same scheme and filed separate petitions i.e. CWP-6344-2019 and CWP-24124-2019 before this Court seeking regularization, and the same have also been dismissed by this Court vide order of even date being connected matter.
9. Keeping in view the same, the present petition is devoid of merits and no interference is required at the end of this Court.
10. Consequently, writ petition is dismissed.
11. The pending application(s), if any, also stand(s) dismissed.

(DEEPAK MANCHANDA)
JUDGE

14.11.2023

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