

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.14711 of 2018 (O&M)

Date of Decision.13.02.2023

Kamal Kumar and others

...Petitioners

Vs

Haryana Vidyut Parsaran Nigam Ltd. and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Vikas Sonak, Advocate
for the petitioners.

Mr. V.K. Kaushal, Advocate
for the respondents.

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JAISHREE THAKUR J. (ORAL)

The instant writ petition has been filed by invoking Article 226/227 of the Constitution of India seeking a writ in the nature of mandamus, directing respondents to consider case of the petitioners for regularization in terms of regularization policy dated 29.07.2011 (Annexure P-2) and judgment passed by this Court in CWP No.12871 of 2013 titled as *Ashrafi Devi Vs. DBHVN and others* decided on 22.02.2018 (Annexure P-6).

Learned counsel appearing for the petitioners would contend that petitioners herein have been working in the respondent-Nigam as part time Sweepers continuously for the last more than 25 years with utmost satisfaction of respondent authorities. The Government of Haryana framed a policy for regularization of services of daily wage/part time employees on 29.07.2011, according to which, any employee, who had completed 10 years of service on 01.01.2006 was held entitled for regularization of his services. Since petitioners were fully entitled for regularization under said policy, their names were sent by respondent No.4 to respondent No.3 and further to respondent No.2 for

consideration vide letters dated 24.01.2013 and 31.01.2013 respectively, however, they were not regularized in service. Aggrieved against said action of respondents, petitioners served a legal notice dated 07.03.2018 but all in vain. It is argued that similarly situated employee had approached this Court by filing CWP No.12871 of 2013 titled as *Ashrafi Devi Vs. DBHVNL and others* challenging order of her de-regularization, which stood allowed on 22.02.2018 and LPA filed by respondents against the said judgment has been dismissed with costs of Rs.25,000/-.

Per contra, learned counsel appearing for the respondents would contend that petitioners herein did not fulfil the terms and conditions of the regularization policy as their names have not been sponsored by the Employment Exchange or they have not been appointed on the basis of recommendations made by the Departmental Selection Committee by inviting applications through advertisement against duly sanctioned vacant posts and in view of the same, their cases have been considered and rejected vide order dated 13.01.2014 passed by the Chief Engineer/Admn., HVPNL, Haryana.

I have heard learned counsel for the parties and have perused the paper book. A similarly situated employee, who was working in DHBVNL as part time sweeper since 1979 was regularized in service in terms of regularization policy dated 29.07.2011, however, within four months, the said order of regularization was withdrawn on the similar ground, as has been taken in the instant writ petition, that her name was not sponsored by the Employment Exchange; nor a Departmental Selection Committee considered her case for appointment by inviting applications through advertisement against duly sanctioned posts. The said employee approached this Court by way of CWP No.12871 of 2013 titled as *Ashrafi Devi Vs. DHBVNL and others*, which was

allowed by this Court on 22.02.2018 and the order de-regularizing the services of the employee was set aside by observing that *a part-time Sweeper does not hold a post designated in rules or regulations of the Nigam. This is need based employment and when carried on continuously over many decades gives regularity and permanence. The shortcomings, if any, in such an engagement may have to be overlooked to bring substantial justice to the petitioner by restoring the order of regularization.* Aggrieved against the said judgment, respondent-Nigam preferred LPA No.494 of 2018 titled as *Dakshin Haryana Bijli Vitran Nigam Ltd. Hisar and others Vs. Ashrafi Devi*, which stood dismissed vide judgment dated 04.04.2018 with costs of Rs.25,000/-.

In view of the aforesaid facts and circumstances, this Court is of the opinion that case of petitioners herein is squarely covered with judgment passed by this Court in CWP No.12871 of 2013 titled as *Ashrafi Devi Vs. DBHVN and others* decided on 22.02.2018 (Annexure P-8), which has further been upheld in LPA No.494 of 2018 decided on 04.04.2018 and therefore, the respondents herein are directed to consider the case of petitioners afresh for regularization of their services in terms of aforesaid judgment (Annexure P-6) as well as regularization policy (Annexure P-2) within a period of four weeks from the date of receipt of certified copy of this order.

The writ petition stands allowed in above terms.

(JAISHREE THAKUR)
JUDGE

February 13, 2023

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No