

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

207-A

CWP No.9827 of 2015
Date of decision:30.01.2023

Satwant Kaur and others

... Petitioners

Vs.

The State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Saurabh Dalal, Advocate
for the petitioners.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. V.K.Mahajan, Advocate
for respondent No.3.

SUVIR SEHGAL, J. (Oral)

Petitioners have invoked the writ jurisdiction of this Court seeking issuance of a writ in the nature of certiorari quashing order dated 23.04.2015 (Annexure P-3) and directing the respondents to grant them minimum of regular pay scale as is being granted to similar situated employees alongwith arrears and compensation. Another prayer has been made for issuance of a writ in the nature of mandamus directing the respondents to regularize the services of the petitioners.

Counsel for the petitioners has contended that the petitioners are working as Balsevikas on contract on a meagre consolidated monthly salary of Rs.1200/- to Rs.2000/- with District Council for Child Welfare in the Creches and Child Care Centres. He submits that petitioners No.1 to 4

have been working for the last 10-15 years, whereas, petitioner No.5 has been in the employment for the last more than 25 years. It is his contention that petitioners are entitled to regular pay scales as have been granted to similarly situated employees working in other districts, who have rendered services of more than a decade. He has challenged the impugned order on the ground that respondent-authorities have failed to appreciate the legal position as has been settled by a Division Bench of this Court, vide judgment dated 13.08.2010 in CWP No.1286 of 1987 titled as **Shakuntla Devi Vs. The Deputy Commissioner, Sirsa and another** and by the Hon'ble Supreme Court in **State of Punjab and others Vs. Jagjit Singh and others** (2017) 1 SCC 148.

On the other hand, counsel representing respondents No.2 and 3 has opposed the petition on the ground that Haryana State Council of Child Welfare is not a “State” within the meaning of Article 12 of the Constitution and a writ petition is not maintainable against it. It is his submission that the Council is a Non-Govt. Organization with its own rules and guidelines and the Govt. policies are not applicable to it. It has not been disputed that some of the Balsevikas in other districts have been made regular and are getting salary alongwith other benefits in view of the judgment passed in **Shakuntla Devi's case (supra)**.

I have considered the submissions made by counsel for the parties and examined the paper-book with their able assistance.

Arguments raised on behalf of respondents No.2 and 3 deserve

to be noticed and rejected. A Full Bench of this Court in **Shakuntla Devi's case (supra)** which has been followed by a Division Bench in LPA No.1124 of 2015 titled as **Janki Devi Vs. State of Haryana and others**, decided on 22.10.2018, has held that District Council for Child Welfare will fall within the ambit of “authority” within the meaning of Article 226 of the Constitution of India and is amenable to writ jurisdiction.

At this stage, it may be noticed that in reply to para 5 of the writ petition, respondents No.2 and 3 have submitted as under:-

“5. That the contents of para No.5 are admitted being a matter of record. It is admitted that some Balsevikas in other districts have been made regular and are getting salary alongwith P.F, D.A. and other benefits in view of order passed in CWP No.1286 of 1987 but since the council has no funds of its own or provided by any Govt. Agency. The scheme sponsored by the Govt. of India does not allow any minimum pay scale and allowances at present. So, the petitioners can not be given the benefit of minimum pay scale as it is against the terms and conditions of the appointment letter. Therefore claim of the petitioners could not accepted.”

As counterparts of the petitioners working in other Districts, have been granted benefits flowing from the judgment in **Shakuntla Devi's case (supra)**, it is not fair to discriminate the petitioners.

In **Jagjit Singh's case (supra)**, Apex Court has held that

temporary employees (differently described as workcharge, daily wage, casual, ad-hoc, contractual and the like) are entitled to the minimum of the regular pay scale alongwith dearness allowance.

In view of the above, impugned order dated 23.04.2015 (Annexure P-3) is set aside. Writ petition is disposed of with a direction to respondents No.2 and 3 to pay the petitioners minimum of the scale of regular pay alongwith dearness allowance in terms of the judgment in **Jagjit Singh's case (supra)**. However, arrears are restricted to a period of three years prior to the date of passing of this order. It is further directed that respondents No.2 and 3 would consider the case of the petitioners for regularization at par with their counter-parts working in other districts and pass appropriate orders. The entire exercise would be carried out within a period of four months from the date of receipt of certified copy of the order.

January 30, 2023

savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes