

CWP-16217-2015

1

209

2023:PHHC:166642

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

CWP-16217-2015

Date of decision : 21.11.2023

Sarwan Kumar

...Petitioner

Vs.

**Punjab State Power Corporation Ltd.
and others**

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Neeraj Malhotra, Advocate for the petitioner.

Mr. Mukul Aggarwal, Advocate for the respondents.

DEEPAK MANCHANDA, J.(Oral)

Petitioner-Sarwan Kumar has filed this writ petition under Article 226 of Constitution of India for issuance a writ in the nature of mandamus directing the respondents to regularize his service as driver from the date his junior/co-employees have been regularized in view of the law laid down by the Hon'ble Supreme Court in "*State of Karnataka and others Vs. Uma Devi*", 2006 (4) SCC 1 and further for direction to give all consequential benefits along with compound penal interest @ 18% per annum from the due date till its actual realisation.

The facts emanated from the pleadings of the present case are that the petitioner was appointed as daily wage Crane Operator on 01.09.1987 and later on he was appointed as Work Charge on 04.06.1993. On 16.11.2010, respondent-department gave option to the petitioner for regularization under the Govt.of Punjab. in view of judgment passed by the Hon'ble Supreme Court

in “*State of Karnataka and others Vs. Uma Devi*” for regularization of services of those daily wage employees, who have completed ten years satisfactory service till December, 2006 and who fulfills the educational qualification and eligibility as per rules/instructions. However, petitioner sacrificed his regularization vide letter dated 27.05.2011 (Annexure P-2) as his retirement was due in next 5-6 years and further due to family circumstances. Thereafter, respondent-department again gave option to employees who had completed ten years in compliance of the letter No.2944/2948/2P 30/Regd.10 dated 14.07.2014 for regularization vide circular dated 22/8/2014. The petitioner also moved representation dated 11.09.2014 (Annexure P-4) before Additional S.E., Rupnagar, however, no action was taken on the same, therefore, petitioner sent reminder regarding his representation to concerned official vide letter dated 02.03.2015 (Annexure P-5). The respondent-department sent reply dated 08.05.2015 (Annexure P-6) to the representation of the petitioner, and he was not regularized, therefore, the petitioner has approached this Court to seek redressal of his grievance.

Learned counsel for the petitioner contends that the claim of the petitioner was rejected by the respondent-corporation without giving any reason, due to which petitioner has to suffer financial loss and mental agony. He prays that the directions be issued and his prayer be considered for regularization of services, as the petitioner has served the department continuously for more than requisite 10 years.

Learned counsel representing the respondents while referring to the reply dated 28.02.2016 submits that the present petition is not maintainable as the petitioner himself declined the offer of the respondent-corporation for

regularization as a one time measure in pursuance to the directions of Hon'ble Supreme Court in the matter of "State of Karnataka and others Vs. Uma Devi", therefore, claim of the petitioner cannot be accepted. Further, he submits that the entire claim of the petitioner is based upon a letter dated 22.08.2014 (Annexure P-3), by which the respondent-corporation called for the details of the workers working under its office, who had completed ten years of service. However, in view of subsequent instructions dated 15.12.2014 (Annexure R-1), the claim of the petitioner cannot be considered, therefore, he prays for dismissal of the petition.

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

The Hon'ble Supreme Court in "***State of Karnataka and others Vs. Uma Devi***" has held that:-

"44. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V.Narayanappa (supra) R.N.Nanjundappa (supra) and B.N.Nagarajan (supra), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned

posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.”

Thus, as per the aforementioned law laid down by Hon’ble Supreme Court this Court does not find much weightage in the submissions made by the learned counsel for the petitioner and is of the view that as the regularization of services was only a one time measure, therefore, petitioner, who refused the offer cannot be regularized after issuance of other instructions thereof.

Consequently in light of the above, the writ petition is devoid of merits and is accordingly dismissed.

Pending application(s), if any, shall also disposed of.

(DEEPAK MANCHANDA)
JUDGE

21.11.2023
vanita

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