

2023:PHHC:145477
**123 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

RSA-4028-2018 (O&M)
Date of decision: 15.11.2023

Bakshish Kaur

....Appellant

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Ms. G.K.Hundal, Advocate for the appellant

Mr.Vikas Arora, AAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. In this Regular Second Appeal, the correctness of the concurrent findings of fact arrived at by the courts below is assailed by the plaintiff. Her suit for the grant of the decree of declaration that she is a confirmed regular employee, with consequential relief of mandatory injunction, has been dismissed by both the courts below.

2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed. The appellant was employed as a Part Time Sweeper by the Headmaster of the School alongwith the Sarpanch of the village. She claimed that as per policy dated 04.03.1999, she is entitled to be considered for the regularization in service. The defendant, while contesting the suit, stated that the appellant was never appointed by the competent authority and no post of the Part-Time Sweeper exists

as such in the school. Both the courts, on appreciation of evidence, have found that the appellant does not fulfill condition no.2 (iv) of the policy dated 04.03.1999 and therefore, no direction to the Government can be issued.

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. Learned counsel representing the appellant contends that in view of the judgment passed in **Gurdev Kaur vs. State of Punjab** (CWP-13565-1997 decided on 10.02.1998), the services of the appellant will be deemed to have been regularized. It may noted here that pursuant to the direction of the High Court in **Gurdev Kaur's case (supra)**, the Government of Punjab came out with a policy decision on 04.03.1999. Clause 2(a)(iv) reads as under:-

“(iv) That they had been appointed initially on part time basis through Employment Exchange or through open advertisement in the press; and”

5. The appellant was neither appointed through the Employment Exchange nor through an open advertisement in the press. Moreover, as per the stand of the State, there is no post of the Part Time Sweeper. The Court is not expected to pass orders while issuing directions, which are beyond the policy.

6. Keeping in view the aforesaid facts, no ground to interfere is made out.

7. Hence, dismissed.

8. All the pending miscellaneous applications, if any, are also disposed of.

15.11.2023
rekha
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE