



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

261

CWP-6884-2024
Date of Decision: 24.09.2024

BADAMA DEVI ...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Laxman Choudhary, Advocate
for the petitioner.

Mr. Samarath Sagar, Addl. A. G., Haryana.

TRIBHUVAN DAHIYA, J. (Oral)

This petition has been filed, *inter alia*, seeking a writ of *mandamus* directing the respondents to regularise the petitioner's service with effect from 01.08.1999, the date her junior part-time Class-IV employees were regularised vide order dated 16.09.2002, Annexure P-5.

2. As per brief facts apparent on record, the petitioner was appointed as part-time Sweeper in Government Primary School, Nanwan, on 02.09.1985, and has been regularised in service with effect from 14.08.2014 (notionally) vide order dated 25.01.2024, by rectifying the earlier date of regularisation, i.e., 18.01.2018. It is claimed that some junior part-time employees, namely, Hanuman Singh, Rohtash Singh, Ami Lal and Krishna Devi, were appointed in the Department on 07.07.1986, 10.05.1987, 05.05.1987 and 01.02.1990, respectively, and were regularised, vide order dated 16.09.2002, with effect from 01.08.1999, 01.06.2000, 01.10.2000 and 01.11.2000, respectively. In fact, the regularisation order was in compliance of order dated 24.09.2001, passed by the Division Bench in these juniors'



case, CWP-5943-2000 titled *Rohtash Singh and others v. State of Haryana and others*, directing their regularisation in service without payment of arrears of salary. The order reads as under:

This judgement will dispose of CWPs Nos.5943 of 2000, 4700 of 2000, 5053 of 2001, 11774 of 2000, 8257 of 2000 and 17223 of 2000.

The petitioners in these writ petitions are part time Sweepers, part time Waterservers and part time Malis. They are seeking for regularisation as per the policy Annexure P-5 read with Annexure P-4. The learned State counsel vehemently objects to the prayer on the ground that there is no sanctioned post. However, we find that these cases are covered by the case of *Ranbir Singh & others v State of Haryana & others* CWP 3593 of 2000 decided on 24.08.2001 and *Raldu Ram etc. V State of Haryana etc.* CWP 10774 of 1999 decided on 4-2-2000.

Learned counsel for the petitioners state that the petitioners may not be awarded any arrears of pay.

In view of this position, the above mentioned writ petitions are allowed. The respondents are directed to pass necessary orders regarding the regularisations of the services of the petitioners with effect from the due date. The petitioners shall not be entitled to arrears. If they are terminated, it goes without saying that they will be treated as re-instated as a result of regularisation.

Accordingly, the petitioner is also entitled to regularisation from the date her junior Hanuman Singh was regularised. However, her claim has been declined

vide the impugned order dated 16.02.2024.



3. In this factual background, learned counsel for the petitioner has contended that the petitioner is senior to Hanuman Singh and other part-time employees, who already stand regularised in terms of order dated 16.09.2002. The only ground to deny regularisation to the petitioner, as apparent from the written statement, is that the order in *Rohtash Singh* case was not generalized. This is arbitrary and discriminatory. Learned counsel further submits that the petitioner is not claiming arrears of salary etc. on account of regularisation from the date her juniors have been regularised.

4. Learned State counsel, on the contrary, contends that the petitioner cannot be given the benefit of *Rohtash Singh* case, since she has approached this Court after inordinate delay of about twenty-three years. Besides, the petitioner has already been regularised in terms of policy, dated 11.11.2003, on availability of vacant sanctioned post with effect from 14.08.2014.

5. Heard.

6. It is an admitted fact on record that the petitioner is senior to Hanuman Singh, who already stands regularised with effect from 01.06.2000 in terms of directions issued by the Division Bench vide order dated 24.09.2001. Once it is accepted that her immediate junior Hanuman Singh, appointed on part-time basis on 07.07.1986, was regularised in service on 01.08.1999, it was incumbent upon the respondents to regularise the petitioner also from that date. Denial of the benefit only because the petitioner could not approach the Court earlier, is arbitrary and discriminatory. It is settled law that once a judgment extending service benefit to an employee has attained finality, it becomes imperative for the Department to extend the same benefit to identically situated employees as well. A reference in this regard can be



made to judgment in *Satbir Singh v. State of Haryana*, 2002 (2) S.C.T. 354, which lays down as under:

19. Be that as it may, particularly in the afore-referred premises, we still feel that it is the bounden duty of the Court to issue the following directions to the State in the larger public interest and for proper administration of justice :-

(i) Wherever the rights of the parties have been settled by a judgment of the Court, the State has taken all remedies available to it in law against that judgment even upto the highest court of the land and the judgments has attained finality, then the State must accept the judgment and implement it in its true spirit and command. There is implicit obligation on the part or the State to grant same relief to other members of the cadre whose claim was based upon identical facts and points of law.

In the instant case, the petitioner's junior was given the benefit of regularisation and the judgment stands implemented as well. Accordingly, she was not only identically placed to the regularised employee Hanuman Singh, but being senior to him was on a better footing having the right to regularisation from the date junior was regularised. Further, like Hanuman Singh, the petitioner herein has also not claimed arrears of salary on account of regularisation from the date her junior has been regularised. Therefore, there is no ground to disentitle her from the relief sought.

7. In view thereof, the petition is allowed and the impugned order, dated 16.02.2024, is set aside to the extent it denies regularisation to the petitioner from the date her junior has been regularised. The respondents are directed to regularise the petitioner in service with effect from 01.08.1999,

instead of 14.08.2014, with all consequential benefits except arrears of salary.

The direction is to be carried out within four weeks of receiving a certified copy of the judgment.

(TRIBHUVAN DAHIYA)
JUDGE

24.09.2024
Ad

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>