

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

228

CWP-10782-2022 (O&M)

Date of decision: 23.09.2024

Shakuntla Devi

....Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Shailendra Sharma, Advocate for the petitioner

Ms. Tanisha Peshawaria, DAG Haryana

AMAN CHAUDHARY, J. (ORAL)

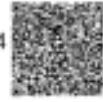
1. The prayer made in the present petition is for directing the respondents to consider the previous service of the petitioner from 1974 till 30.09.2003 for the purpose of grant of pension and other retiral benefits.

2. The petitioner was appointed as Craft Teacher on 28.11.1974 and her services were regularised in the year 1983, however, she was reappointed on adhoc basis on 03.01.1995 as Gram Sevika and then regularised w.e.f. 01.10.2003, but she having retired on 31.01.2009, only the regular service rendered as Gram Sevika was considered for the payment of retiral dues.

3. Learned counsel submits that the case is squarely covered by the judgment passed by this Court in **Indu Bala vs. State of Haryana and Others**¹, relevant paras whereof read thus:

“The factual position is that the petitioner was initially appointed as Craft Teacher on ad hoc basis on 10.12.1975 and her services as a Craft Teacher was regularized on 22.11.1982.

¹ CWP-866-2015, decided on 13.01.2017

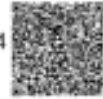


While working on a regular post, she was appointed as Gram Sevika on adhoc basis vide order dated 07.07.1995. Apparently, the post of Craft Teacher was earlier under the Panchayat Samiti but the post of Craft Teacher which was converted into Gram Sevika, came under the District Rural Development Agency. It is also admitted on behalf of the State that in the year 2003, it was decided to regularize the services of those Gram Sevikas who were appointed from the local bodies. Accordingly, the proposal for regularizing the services of those Gram Sevikas were invited under the policy of regularization dated 01.10.2003. It is also not disputed that the concerned District Development Rural Agency, Sonipat, where the petitioner was working, failed to submit the case of the petitioner for regularization. Consequently, her services could not be regularized. Thereafter, the said policy was stated to have been withdrawn on 25.04.2007.

I am of the view that services of the petitioner as a Craft Teacher was regularized on 22.11.1982 and at that time, the post of Craft Teacher was under the Panchayat Samiti. Since, the said post was re-designated/converted into Gram Sevika, she was given a fresh appointment letter dated 07.07.1995, whereby she was appointed on ad hoc basis. In fact, the Government considering the fact that the regular employee have been appointed on ad hoc basis had itself framed a policy of regularization dated 01.10.2003, wherein it was decided to regularize the service of Gram Sevikas, who are appointed from local bodies. However, the case of the petitioner was never submitted by the concerned District Rural Development Agency.

I am of the view that once the petitioner has worked as a regular employee and on account of taking over or change of the designation, the same was taken over by the District Rural Development Agency. Since, the regular employee could not be made an ad hoc employee, therefore, the State has rightly decided to regularize the services of such employees on 01.10.2003. If the concerned District Rural Development Agency had not submitted the case of the said employees for regularization, the Government had the list of such appointees and could ask the concerned agency to submit their case. As such services of the petitioner were deserved to be regularized w.e.f. 07.07.1995 when she was appointed from regular post as a Craft Teacher to the ad hoc post of Gram Sevika even though the said policy of regularization has been withdrawn on 25.04.2007. Since, the petitioner was entitled to regularization as per the said policy w.e.f. 07.07.1995, the date on which she was appointed as Gram Sevika, therefore, she can avail the said benefit.

In the circumstances, a writ of mandamus is issued for directing the respondents to regularize the services of the



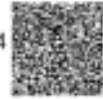
petitioner w.e.f. 07.07.1995 as Gram Sevika as per the policy of regularization dated 01.10.2003 and thereafter, compute the entire service of the petitioner as Craft Teacher w.e.f. 10.12.1975 followed by regularisation as a Craft Teacher including services of the petitioner as Gram Sevika and consider her case for grant of pension and other pensionary benefits and pass the necessary order within two months from the date of receipt of certified copy of this order. It is further ordered that interest on the arrears also be released to the petitioner from the date of filing of the present petition i.e. 17.01.2015 as per the government instructions till actual payment is made.

In view of the above, the petition stands allowed.”

4. The appeal² against the aforesaid filed by the State, was also dismissed by the Division Bench, relevant paras of which read thus:

“Indisputably, the respondent was initially appointed as Craft Teacher on ad hoc basis on 10.12.1975, and her services were regularized on 22.11.1982. Owing to the closure of Panchayat Samiti Services she was employed as Gram Sevika in a regular pay scale of Rs.950-20.1200-25-1500 in the same department, but on ad hoc basis. Being cognizant of the fact that those employees who were in regular service with the local bodies, but were appointed as Gram Sevikas on ad hoc basis, the Government by a conscious decision sought to regularize their services, and enacted a regularization policy dated 1.10.2003. It is not in dispute either that services of the other Gram Sevikas, who were identically situated and circumstanced as the respondent, were regularized under the said policy. Significantly, this has also not been the case of the State at any stage that as the respondent lacked eligibility in terms of the 2003 policy her services could not be regularized. The only reason assigned by the appellants is that since the proposal in respect of respondent was not forwarded by the District Rural Development Agency (DRDA), Sonapat, where she was posted, her claim could not be considered. Ex facie, even the department remained insensitive qua the rights and interest of the respondent, for, being seized of the requisite data and records even it could requisition the proposal or the claim of the respondent from DRDA, Sonapat, to meet the purpose for which 2003 policy was enacted. Thus, in the given situation, the appellants could not be the beneficiaries on their own wrong and deprive the respondent of the benefits she was legitimately entitled to. We are reminded to point out at this juncture that before the respondent was employed as Gram

² LPA-1133-2018, decided on 26.07.2018



Sevika on ad hoc basis in the year 1995, she had already rendered 13 years of regular service as a Craft Teacher in the same department. But as she retired as ad hoc Gram Sevika on 31.08.2010, even her previous regular service was rendered inconsequential. The argument that the regularization policy dated 1.10.2003, was subsequently withdrawn by the Government pursuant to a letter dated 25.04.2007, would also not advance the case of the appellants a bit. For, as indicated above, as per the case of the appellants itself the respondent was fully eligible, and rather ought to have been regularized along with other Gram Sevikas. On being pointedly asked, learned State counsel could not point out anything from record to show if the conclusion arrived at by the learned Single Judge was either contrary to the record or suffered from any material illegality. That being so, we are dissuaded to interfere with the impugned order and judgment.

The appeal being devoid of merit is accordingly dismissed.”

5. This Court in **Sheela Devi vs. State of Haryana and Others**³, against which no LPA was filed and the same was even implemented, had allowed the writ by directing the respondents to compute the retiral benefits and release them to the petitioner therein. The relevant paras of the same read thus:

“The petitioner was initially appointed as Craft Teacher by the Panchayat Samiti Hansi in the year 1967. She worked as such with numerous breaks and, ultimately by order dated 21.10.1981 her services were regularized as a Craft Teacher. The order dated 21.10.1981 reads as follows :-

“ The services of Smt. Sheela Devi, Craft Teacher who has been working on adhoc basis at Block Hisar-II, is hereby regularized in compliance of Govt. instructions and she is hereby posted in Block Hisar-I against vacant post.”

The adhoc appointment which is referred to in the aforesaid order relates upto 1.1.1981 as per reply filed by the respondents. Thereafter, by order dated 21.11.1994, the petitioner was re-appointed as a Gram Sewika from where she retired on 31.1.2002. Her claim for pension has been rejected on two grounds; firstly service rendered under the Panchayat Samiti is non-pensionable; and secondly her adhoc service under government was only from 21.11.1994 to 31.1.2002 i.e 7 years and 2 months. Consequently, she was not entitled for pension.

³ CWP-17988-2011, decided on 29.11.2013



Counsel for the petitioner has relied upon a letter/instructions dated 22.11.2001 (Annexure P-9) whereby the government decided to make service under the Panchayat Samitis as pensionable.

In reply, it has stated that the instructions (Annexure P-9) apply only to those who had been absorbed in the department, whereas the petitioner was appointed afresh.

In my opinion, the distinction sought to be drawn is not in conformity with law. Whether the petitioner was appointed afresh or absorbed, the fact remains that her service under the Panchayat Samiti was pensionable as was her service as Gram Sewika under the department. In Kesar Chand v. State of Punjab and others, AIR 1988 (P&H) 265, this Court held that adhoc service which merges into regular service has to be counted for pension. Consequently, it is not open to the respondents to refuse to count the service rendered by the petitioner under the Panchayat Samiti for determining her eligible for pension. Resultantly, this writ petition is allowed. It is directed that the petitioner is entitled to count her service from 1.1.1981 to 31.1.2002 for retiral benefits. The respondents are directed to compute the retiral benefits and release them to the petitioner within three months from the date of receipt of a certified copy of this order, failing which she would be entitled to recover the same with interest @ 8% p.a from the date of retirement till the date of payment.

No order as to costs.”

6. Learned State counsel is unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.

7. In wake of the aforesaid, the present petition is disposed of in terms of the judgments passed in **Indu Bala** and **Sheela Devi** (supra).

(AMAN CHAUDHARY)
JUDGE

23.09.2024

M.Kamra

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