



CM-14527-CWP-2024 in/and
CWP-21058-2022

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

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CM-14527-CWP-2024 in/and
CWP-21058-2022
Date of decision: 11.09.2024

Krishan Kumar and another

....Petitioners

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vikas Sonak, Advocate, for the petitioners.

Mr. Harish Nain, AAG Haryana

AMAN CHAUDHARY, J. (ORAL)

CM-14527 of 2024

For the reasons mentioned in the application, the same is allowed
and the main case is taken on Board today itself.

Main case

1. Prayer made in the present petition was for setting aside the order of rejecting the claim of the petitioners and to consider the claim of the petitioners and regularised their services as per policy dated 29.07.2011, Annexure P-1, on the ground that similar benefits have been granted to the other similarly situated employees. This Court, vide order dated 05.09.2023, adjourned this case sine-die on the request of learned counsel for the petitioners himself to await the decision in SLP-4531-2023, titled State of Haryana and others vs. Balwinder Singh and others, which now stands

dismissed vide judgment dated 09.01.2024, relying on which this Court in



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that the senior employees cannot be regularized in service on the ground of nonavailability of the sanctioned post. Once, the services of junior have been regularized the senior employee will ipso facto get the right for regularization of his/her services even if the said benefit has to be extended by creating a post for the very purpose.

28. The last objection which has been raised by the learned counsel for respondent-State is that after the judgment passed in **Uma Devi' s case** (Supra), no benefit of regularization can be claimed.

29. It may be noticed that once, the Hon'ble Supreme Court of India in **Prem Singh' s case** (supra) after having noticed the position of lawsettled in **Uma Devi' s case** (Supra) has carved out an exception so as to give directions to regularize services of employees who had continued to work for a period of more than 10 years and the said judgment has been brought into operation so as to give benefits of regularization to employees who have even superannuated without getting their services regularized, therefore, in the light of the same, the contention of the respondents that the benefit of regularization cannot be given in view of the judgment passed in Uma Devi' s case (supra) cannot be sustained and is accordingly rejected, moreover, it is a conceded fact that all the petitioners who are seeking regularization of their services have more than 10 years of service to their credit.

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31. With regard to the judgment passed in **Vibhuti Shankar Pandey's case** (Supra), which has been relied by the respondent-State herein above, the same cannot be made applicable in the present case. In the Judgment passed in **Vibhuti Shankar Pandey's case** (Supra), there were no such claim that the similarly situated employees have been regularized in services, as, in **Vibhuti Shankar Pandey' s case** (Supra), the claim of regularization was made despite the fact that the employees did not fulfill the qualification required for appointment on the post in question, which fact is missing in the present case. Also as per conceded facts, in the present case for the purpose of regularizing services of employees who are similarly situated to the petitioners, directions have been given by co-ordinate bench of this Court in **Balwinder Singh' s**



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case (Supra), and the said directions have already been upheld up to the Hon'ble Supreme Court of India. Rather some of the similarly situated employees have been granted the benefit of regularization of their services from the date services of employees junior to them were regularized even before the said SLP was dismissed by Hon'ble Supreme Court of India which fact is clear from the order dated 09.01.2024 passed by the Hon'ble Supreme Court of India.

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33. With respect to the argument of learned counsel for the respondent-State pertaining to the claim of petitioners being barred on account of delay, it may be noticed that the case of the similarly situated employees have already been allowed by the Coordinate Bench of this Court in **Balwinder Singh (supra)**, which judgment has already been upheld by the Division Bench of this Court and even the SLP has been dismissed on 09.01.2024. Once, the actual benefit to the similarly situated employees is yet to be extended by the respondents in terms of **Balwinder Singh' s case** (Supra), it cannot be said that similar claim raised by the petitioners is time barred.

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36. With respect to the condition of having three years of service with 240 days of work in each year as on the date an employee shall become eligible to claim regularization of his/her services in terms of the regularization policy dated 01.10.2003 or any other regularization policy, the services of the employee from the date of his/her initial appointment shall be considered for the purpose of qualifying the said condition. In case, the petitioners has worked for 240 days in any of the 3 years upto the date of regularization policy, said petitioners will be considered eligible under the policy in which the benefit has been claimed.

37. Further, in case, any employee junior to the petitioners, has been regularized in service, which fact in case is established before the respondent authorities by the petitioners, the said petitioners will get the right of regularization of their services from the date when the services of the employee junior to them has been regularized if the said petitioners fulfills all the requisite



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of relevant regularization policy and respondent-State shall fix the date of regularization of such employee from the date his/her junior was regularized in service as has been directed in the case of **Balwinder Singh** (Supra).

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40. At this stage, learned counsel for the petitioners has raised a plea that in some cases on the ground that the petitioners have been appointed prior to 1996, their claims has been rejected which condition has already been set aside by a co-ordinate bench of this Hon'ble Court in CWP No.1582 of 2018 titled as '**Gobind v. State of Haryana and others**', decided on 13.03.2019.

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42. Let consideration as directed herein above be completed within the period of four months from the date of receipt of certified copy of this order.

43. In view of the above, the writ petitions are disposed of in the terms and conditions mentioned herein before. Let the respondent-State pass appropriate speaking order as directed herein before. In case, any of the petitioner is found entitled for regularization/retrospective regularization of services from the date employees junior to him/her has been regularized, they will be granted the said date of regularization otherwise due reasons be mentioned in the speaking order keeping in mind the directions given by the Court herein before so as to decide the eligibility of each petitioners qua their respective claims. Further in case any of the petitioners is found entitled for regularization of his services retrospectively the said benefit shall be given notionally, no arrears will be granted to the petitioners up to the date of filing of the respective petitions. The petitioners will be entitled for fixing of their salaries from the date of regularization notionally and the arrears will only be extended from the date of filing of their respective petitions before this Court and if any of the petitioners has already retired, his/her pensionary benefits will also be fixed/revised and arrears will also be extended from the date of filing the petition by the said petitioner."

3. Learned State counsel submits his no objection to the prayer

made by learned counsel for the petitioner.

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4. In wake of the above, the present petition is disposed of in terms of the judgment passed in **Ashish Sharma and Others** (supra).

(AMAN CHAUDHARY)
JUDGE

11.09.2024
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Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No