

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(104)

LPA-991-2023 (O&M)
Decided on : 22.04.2024

Deputy Commissioner, Yamuna Nagar

.....Appellant(s)

Versus

Satwant Kaur and others

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr. Shalender Mohan, Advocate for the appellant (s).

Mr. Deepak Balyan, Addl. AG, Haryana.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-2535-LPA-2023

Application for condonation of delay of 72 days in filing the appeal, is allowed, in view of the averments made in the application, duly supported by affidavit of the appellant. Delay of 72 days in filing the appeal is condoned.

CM stands disposed of.

LPA-991-2023 (O&M)

1. Consideration in the present letters patent appeal is sought of the order of the learned Single Judge dated 30.01.2023 passed in **CWP-9827-2015** 'Satwant Kaur and others Vs. State of Haryana and others', wherein innocuous prayer for payment of minimum of pay scale alongwith dearness

allowance in terms of the judgment passed in the case of **State of Punjab and othes Vs. Jagjit Singh and others, (2017) 1 SCC 148** has been granted. The arrears were restricted to a period of three years prior to the date of passing of the order. Consideration of the case of petitioners for regularization at par with the counter-parts working in other districts and pass appropriate order was also directed.

2. Counsel for the appellant has vehemently submitted that the Creches are being run by the State Council under the Rajiv Gandhi National Creche Scheme and same have been handed over by the State Council to Women and Child Development Department, Haryana alongwith staff on 30.12.2016.

3. In the writ petition, challenge by the five writ petitioners, who were serving in the District Yamuna Nagar was to the order passed on 23.04.2015 (Annexure P-3), whereby the appellant as such had rejected the case of regularization and minimum of regular pay scale primarily on the ground that payment was being made under the scheme in which they were working and were totally dependent on the funds provided by the Indian Council for Child Welfare, New Delhi. The other reason given was that if new scales to are given to creche workers, then the State Council would have no option to close down the scheme/creches, as there are no such funds with the State Council to grant minimum pay scales. Objection was also taken in the written statement that the writ petition was not maintainable, as the State Council did not fall within the purview of Article 12 of the Constitution of India.

4. The learned Single Judge has noticed that law regarding the maintainability has already been settled by the Division Bench of this Court in

CWP No.1286 of 1987 '**Shakuntla Devi Vs. The Deputy Commissioner, Sirsa and another**', and another Division Bench of this Court in LPA No.1124 of 2015 '**Janki Devi Vs. State of Haryana and others**' decided on 22.10.2018 has held that District Council for Child Welfare would fall within the ambit of 'authority' within the meaning of Article 226 of the Constitution of India. The learned Single Judge also noticed that similarly situated *Balsevikas* in other districts had been made regular and had been paid salary along with P.F., D.A and other benefits and resultantly held that it was not fair to discriminate the writ petitioners, as other counter-parts working in other districts had been granted the benefits. Accordingly, directions were issued that the present appellant would consider the case of the writ petitioners for regularization at par with their counter-parts working in other districts and pass appropriate orders. The entire exercise was to be carried out within a period of four months. The writ petition has, thus, been allowed on the basis of the pleadings which have been admitted as para 5 of the averments made in the writ petition along with the admission made in the corresponding para of the written statement.

5. As noticed above, since there was specific averment in paragraph No.5 of the writ petition that some other *Balsevikas* had been made regular and were getting full salary while placing reliance upon the judgment passed in **Shakuntla Devi (supra)**. On account the averment being admitted, necessary benefits had been given. We do not see any tangible reason to take a contrary view as such when similarly situated persons are being granted the benefit of minimum of the pay scales, as had been directed by the Apex Court in the case of **Jagjit Singh (supra)** as the writ petitioners were being paid paltry amounts of Rs.1200/- to Rs.2000/-. It is not disputed that the State has also issued

necessary instructions regarding the payment in compliance of the judgment of the Apex Court. Resultantly, since on the ambit of regularization as such only directions have been issued to consider the case, it is always open to the appellant to pass a speaking order, in view of the stand that no creche is being run by the State Council.

6. Resultantly, we do not find any ground as such to interfere in the well reasoned order passed by the learned Single Judge, specially more so it is based on the admissions as such made by the appellant that similarly situated persons are being granted the necessary minimum wages. Since, Council has apparently looked after the welfare of the children and it is in overall supervision by the District Magistrate, therefore, it is the State which has deep and pervasive control over the Council and comes under the definition of 'State' under Article 12 of the Constitution of India and an 'authority' within the meaning of Article 226 of the Constitution of India and, thus, amenable to the writ jurisdiction.

7. Accordingly, there is no merit in the present appeal and same is hereby dismissed in limine.

8. All the pending application(s) including CM-2536-LPA-2023 for additional evidence also stand disposed of.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

22.04.2024
Naveen

Whether speaking/reasoned :	Yes
Whether Reportable :	No

