



CWP-19292 of 2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-19292 of 2021

Date of Decision:28.05.2024

Bachhan Singh and another

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Harbans Lal Sharma, Advocate,
for the petitioners.

Mr. Arun Gupta, DAG, Punjab

AMAN CHAUDHARY J. (Oral)

1. The prayer made in the present petition is for directing the respondents to regularize the services of the petitioners against their respective posts.

2. Learned counsel contends that petitioner No.1 was appointed as Baildar/Worker on 20.02.1991 and petitioner No.2 was appointed on 01.01.1998 on daily wage basis with the respondent Department in Forest Range Ferozepur but their services are not being regularized and their case is squarely covered by the judgment of this Court in **Amrish Sharma and**



others vs. State of Punjab and others, CWP-19238-2013, decided on 26.02.2024, relevant portion of which reads thus:-

“35. In the case in hand, the respondent in 2006 framed regularization policy which was followed by 2011 Policy. As per Policy of 2006 read with policy of 2011, an employee who has completed service of 10 years by the end of December’ 2006 is eligible for regular appointment. All the petitioners are Class ‘D’ employees. Few petitioners, as confirmed in different affidavits, during the pendency of litigation have been regularized and remaining have not been regularized due to lack of permanent/sanctioned posts. The respondent in 2023 has framed another policy whereby dying cadre has been created. There was no minimum qualification at the time of their appointment. They without interruption are working for decades. They are assigned duties of Class IV. Courts repeatedly have held that long experience is as good as minimum qualification especially when an employee is effectively discharging his duties. Thus, it would not be justified, on the ground of minimum qualification, to deny benefit of regularization to an employee who is working for decades and is assigned duties of class IV i.e. lowest rung.

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Conclusion:

47. In the wake of above discussion and findings, this Court comes to conclusion as below:

- i) This Court in the normal course cannot ask State to create or sanction posts.
- ii) The petitioners who had completed service of 10 years by the end of December’ 2006, either at present are in service or have already retired, are entitled to regular post and they cannot be denied regularization on the ground of lack of sanctioned post or minimum education qualification. To avoid burden on State exchequer, it is clarified that from the deemed date of their regularization, they shall be entitled to minimum of pay scale plus dearness allowance and grade pay till the date of this order and thereafter regular pay scale.
- iii) The petitioners who are still in service but did not complete service of 10 years by the end of December’ 2006 would form part of dying cadre created by 2023 Policy. The State, in view of long service of these employees, would not insist for minimum qualification. They from the date of



completing service of 10 years would be entitled to minimum of pay scale plus dearness allowance plus grade pay till the date they are regularized in terms of 2023 Policy.

iv) The petitioners who did not complete service of 10 years by the end of December' 2006 and during the pendency of present litigation have superannuated or passed away would be entitled to minimum of pay scale plus dearness allowance and grade pay from the date of completing service of 10 years till the date of their retirement or death. v) The petitioners who have already been regularized by 31.12.2016 shall not be entitled to any additional financial benefit because they are already getting higher amount of salary for last couple of years.

vi) The respondent-State shall not be liable to pay interest on arrears arising on account of re-fixation of pay.”

3. Learned State counsel despite his best efforts has not been able to controvert the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.

4. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Amrish Sharma** (supra).

(AMAN CHAUDHARY)
JUDGE

May 28, 2024

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Whether speaking

: Yes/No

Whether reportable

: Yes/No