2024:PHHC:119039

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

109+250+286 **CWP-12646-2020 (O&M)**
Date of Decision :10.09.2024

Rajesh Kumar and others **..Petitioners**

Versus

State of Punjab and others **...Respondents**

CWP-15948-2020

Sukhpreet Singh Brar **..Petitioner**

Versus

State of Punjab and others **...Respondents**

CWP-15794-2020

Satvir Singh and others **..Petitioners**

Versus

State of Punjab and others **...Respondents**

CWP-14910-2022

Manjit Kaur **..Petitioner**

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Versus

State of Punjab and others **...Respondents**

CWP-21981-2023

Geetika Garg and others **..Petitioners**

Versus

State of Punjab and others **...Respondents**

CWP-12681-2024

Amrit Pal Singh and others **..Petitioners**

Versus

State of Punjab and others **...Respondents**

CWP-13219-2024

Manjit Singh and others **..Petitioners**

Versus

State of Punjab and others **...Respondents**

CWP-11042-2024

Jagjit Singh and others **..Petitioners**

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Versus

State of Punjab and others **...Respondents**

CWP-15573-2024

Onkar Singh and others **..Petitioners**

Versus

State of Punjab and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. D.S. Patwalia, Senior Advocate with
Mr. Kannan Malik, Advocate for petitioners
in CWP-12646-2020.

Mr. Parvesh K. Saini, Advocate with
Mr. Ashutosh Bhardwaj, Advocate for petitioners
in CWPs-12681 and 15573-2024.

Mr. Hitesh Sood, Advocate
for petitioner in CWP-15794-2020.

Mr. Bhupesh Jaswal, Advocate for
Mr. Maneesh Bali, Advocate for petitioners in
CWP-21981-2023.

Mr. T.S. Chauhan, Mr. APS Chaudhary &
Mr. Som Nath, Advocates for petitioners in CWP-13219-2024.

Dr. Rau P.S. Girwar, Advocate, Ms. Archana Puhanian,
Mr. K.T. Rau, Advocate and Mr. Vikas Singh, Advocate
for petitioners in CWP-15948-2020.

Mr. Sanjeev Kumar, Advocate for petitioner
in CWP-14910-2022.

Mr. Sukhcharan Singh, Advocate for petitioner
in CWP-11042-2024.

Mr. Swapan Shorey, DAG, Punjab.

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Ms. Deepali Puri, Advocate for respondent No.4
in CWP-15573-2024.

Mr. Anupam Singla, Advocate for respondent No.4
in CWP-12681-2024.

Mr. Rehat Bir Singh Mann, Advocate for respondent No.4
in CWP-21981-2023 & CWP-13219-2024.

Mr. Shekhar Verma, Advocate for the respondent No.4
in CWPs.12646 & 15948-2020 & CWP-14910-2022.

Mr. APS Madaan & Mr. Harkirat S. Jagdev, Advocates
for respondent No.4 in CWP-15794-2020.

* * *

Harsimran Singh Sethi, J. (Oral)

By this common order, above mentioned writ petitions are being disposed of as all the writ petitions involve the same question of law on similar facts.

In the present bunch of petitions, the non-teaching staff of the various Societies, who are working under the supervision of the Department of Education, Government of Punjab has approached this Court seeking benefit of regularization of their services by placing reliance upon the action taken by the Government of Punjab in consultation with the Societies where the teaching staff was working, which staff has already been regularized by the Societies and have been taken over by the Government.

Learned Senior counsel appearing on behalf of the petitioners submits that once, the teaching staff as well as non-teaching staff belongs to the same Societies, their rights cannot be differentiated merely because they are working on different posts discharging different duties. Learned Senior counsel for the petitioners further submits that all the employees are same

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for an employer irrespective of their posts on which he/she is working and performing different nature of duties hence, once, a particular benefit is being extended by an employer to a particular category of employees, the employees working in other cadres cannot be denied the same benefit merely because they are discharging the different nature of duties despite being the employees of the same employer.

Learned Senior counsel for the petitioners further submits that in the present case, it is a conceded fact that the teaching staff, which was working in the various Societies such as (SSA, RMSA, MDM PEDB Aadarsh and Model Schools), has already been given benefit of regularization of their services, after which, they have been absorbed in the Department of Education, Government of Punjab.

Learned Senior counsel for the petitioners submits that the petitioners in the present petitions are seeking benefit of regularization of their services on the same parity with the liberty to the State Government to absorb them or not to absorb them with the State department. Learned Senior counsel for the petitioners has placed reliance upon the judgment of the Division Bench of this Court in ***LPA-706-2020, titled as State of Punjab and others vs. Balbir Singh and others*** to contend that as per the judgment of the Division Bench of this Court, different employees of the same employer cannot be treated differently so as to grant them relief and the relief granted to a particular category of employees has to be extended to the other category of employees so as to avoid discrimination between the employees of the same employer.

Learned Senior counsel for the petitioners argues that keeping

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in view the judgment of the Division Bench of this Court in ***Balbir Singh (supra)***, once, the State Government has already allowed the different Societies vide decision/Instructions dated 16.12.2009 (Annexure P/14) to regularize the services of the non-teaching staff, the Societies, which is the employer of the petitioners should have taken appropriate decision to regularize the services of the petitioners in case, the employees concerned fulfills the requirements as envisaged under Instructions dated 16.12.2009.

Learned Senior counsel for the petitioners further submits that non-consideration of the claim of the petitioners under the decision/Instructions dated 16.12.2009 (Annexure P/14) is arbitrary and illegal and is causing prejudice to the petitioners so as to create disparity between the two categories of employees of one employer.

Learned Senior counsel for the petitioners further submits at this stage the petitioners will be satisfied in case, the Societies, who have been given power to pass appropriate orders for regularization of services of the non-teaching staff under the decision/Instructions dated 16.12.2009 (Annexure P/14) are directed to consider the claim of all the eligible non-teaching staff including the petitioners for regularization of their services.

Learned counsel appearing for the Societies submits that they have no objection in considering the claim of the petitioners for regularization of their services under the decision/Instructions dated 16.12.2009 (Annexure P/14) but the Government should support the said decision.

Learned State counsel submits that qua the prayer of the petitioners is to direct the societies to take decision keeping in view the

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decision/Instructions dated 16.12.2009 (Annexure P/14) of the Government, appropriate liberty has been given to the Societies to pass an appropriate order qua the non-teaching staff with regard to their regularization, Societies can pass appropriate order in terms of the said instructions being employer of the petitioners.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the facts and circumstances mentioned hereinabove, present petitions are disposed of with the direction to the Societies concerned i.e. employer of the petitioners to consider the claim of the petitioners for regularization of their services in terms of the decision/Instructions dated 16.12.2009 (Annexure P/14) of the Government and pass an appropriate order on the claim of the petitioners and for other similarly situated employees within a period of three months from the date of receipt of copy of this order. In case, it is found by the societies that keeping in view the decision/Instructions dated 16.12.2009 (Annexure P/14) of the Government, the petitioners are entitled for the benefit, of regularization, the same be extended to them otherwise, due reasons for not accepting their claim will be mentioned in the speaking order to be so passed, which will be conveyed to the petitioners also for their information and necessary action.

At this Stage, learned counsel appearing for the Societies submits that as the petitioners are working under the scheme and it could be a probability that such scheme comes to an end and in case, the scheme comes to an end and the services of the petitioners are regularized, the

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Societies will not be in a position to disburse the salaries of the petitioners and societies will also not be able to dispense the services of the petitioners despite there being no work with the societies.

Learned Senior counsel for the petitioners submits that in case, such an eventuality arises that after the services of the petitioners are regularized and the scheme under which they are working comes to an end, the petitioners will have no objection in case, the posts are abolished so as to terminate their services which action is within a jurisdiction of the employer keeping in view the settled principle of law.

Learned counsel for the Societies submits that keeping in view the direction given by this Court in the present order, an appropriate order on the claim of the petitioners for regularization of their services in terms of the decision/instructions dated 16.12.2009 (Annexure P/14) of the Government by keeping in mind the judgment of the Division Bench of this Court in ***Balbir Singh (supra)*** so as to avoid any discrimination between the employees, will be passed within the time frame granted by this Court and in case, the petitioners are found entitled for the benefit, the same will be extended to them otherwise, due reasons for not accepting their claim will be mentioned in the speaking so pass, which will be conveyed to the petitioners also for their information and necessary action.

Liberty is given to the society-employer to pass appropriate order qua the various categories of the employees in case, they stand on different footing keeping in view any fact.

Present petitions are disposed of in above terms.

Civil miscellaneous application pending, if any, is also

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disposed of.

A photocopy of this order be placed on the files of connected cases.

September 10, 2024 **(HARSIMRAN SINGH SETHI)**
aarti **JUDGE**

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

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