

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-30270-2018 (O&M)

Date of Decision :21.08.2024

Jaspal Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Fateh Singh Dhillon, Advocate for the petitioners.

Mr. Arun Gupta, DAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)

In the present petition, grievance being raised by the petitioners is that though, they are working as Class-IV employees with the respondents on temporary basis from the last 2-3 decades but their services are not being regularized despite the fact that the claim of the petitioners is covered under the judgment of the Hon'ble Supreme Court of India in **Secretary, State of Karnataka vs. Uma Devi and others, 2006 (4) SCC 1.**

Learned counsel for the petitioners submits that even the claim of the petitioners is even covered under the instructions issued by the respondents in December 2006 and subsequently in March 2011 on the basis of the direction given in the case of **Uma Devi (supra)** but still the respondents have not granted the said benefit to the petitioners on the ground that petitioners have crossed the maximum age for direct appointment, which action of the respondents is totally arbitrary and illegal.

Learned counsel for the petitioners further submits that even while working on temporary basis, keeping in view the judgment of the Hon'ble Supreme Court of India in **State of Punjab vs. Jagjit Singh 2016**

(4) SCT 461, the petitioners are entitled for the benefit of minimum of the regular pay scale along with D.A.

Upon notice of motion, the respondents have filed reply wherein, they have conceded the fact that the petitioners are working from the last 2-3 decades but submitted that as the the petitioners have already crossed the maximum age of 37 years for direct appointment, their services could not be regularized.

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

Once, the petitioners are working on contractual basis from the last 30 years with the respondents, the respondents cannot take a plea that they have crossed the maximum age of 37 years i.e. age prescribed for direct recruitment, which requirement is only for direct recruitment in a Government service.

Even the Hon'ble Supreme Court of India in Uma Devi (supra) has held that an employee should have 10 years of service to his /her credit for consideration of regularization of his/her services and there is no age prescribed for the grant of said benefit.

Even otherwise, on the basis of judgment of the Hon'ble Supreme Court of India in Uma Devi (supra), the respondents have issued instructions in December 2006 and thereafter again in March, 2011 vide Annexure P/2 for regularization of service of the employees. Not even a single word of the said policy relates to the maximum age prescribed for the grant of relief and the only requirement is that the employee should have completed minimum service to be considered for regularization of his/her services.

Qua the argument being raised by the learned counsel for the

respondents that the petitioners are over age keeping in view the age required for direct recruitment hence, their claim cannot be accepted, it may be noticed that an employee, who had rendered 30 years of service with the respondents cannot be expected to be of 37 years of age to claim the benefit of regularization of his/her services.

Not to mention, this Court after relying upon the judgment of the Hon'ble Supreme Court of India in *Uma Devi (supra)* as well as in *Civil Appeal No.6798-2019, titled as Prem Singh vs. State of Uttar Pradesh and others decided on 02.09.2019* while deciding *CWP-26714-2019 titled as Hira Devi and others vs. State of Punjab and others* on 19.07.2024, has held that where an employee discharged the duties from the last 2 to 3 decades, his/her services should be regularized without even insisting upon the regular post much less the objection qua the minimum age required for direct recruitment.

Keeping in view the above, present petition is allowed. The respondents are directed to consider the claim of the petitioners for the grant of benefit of regularization of their service in terms of the regularization policy issued by the respondents in pursuance to judgment of the Hon'ble Supreme Court of India in *Uma Devi (supra)* in December 2006 and subsequently in March 2011 and pass an appropriate order within a period of 08 weeks from the date of receipt of certified copy of this order.

Civil miscellaneous application pending, if any, is also disposed of.

August 21, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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