



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

294

CWP-8920-2024 (O&M)

Date of decision: 16.01.2025

Budh Ram (Deceased) Through Lrs

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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

Mr. Charanpreet Singh, AAG Punjab

AMAN CHAUDHARY, J. (ORAL)

1. The prayer in the present petition is for setting aside the order dated 16.12.2022, Annexure P-19, whereby the claim of the petitioner was wrongly rejected by relying on the judgment passed by the Division Bench of this Court in **Anika Gupta and Another vs. State of Punjab**, CWP-4187-2017, decided on 11.09.2024.

2. Learned counsel submits that the father of the petitioners was engaged as a daily wage Beldar, worked for 37 long years and was entitled for regularisation after completion of 10 years as on 31.12.2006, in terms of the policy dated 15.12.2006, Annexure P-5, were regularised vide order dated 03.11.2011 as stated in para 6 of the petition, in terms of the seniority list dated 09.11.2011. The name of the petitioner was somehow not included in the seniority, which though was included by stating that it was due to clerical error occurred, while preparing the seniority list and there was no fault of the petitioner. Para 2 of the written statement reads thus:



“ That The impugned Order No. 5859 dated 16.12.2022 states that, as per Letter No. 7520-21 dated 04.02.2016, clarification was sought from the concerned field staff regarding a mismatch of records for certain years of petitioner. The order further indicates that a clerical error occurred while preparing the seniority list, and the incorrect entry was not made intentionally. Upon the discovery of this error through Sangrur Mandal's Letter No. 5828 dated 14.12.2022, a communication was sent to the Chairman of the Screening Review Committee to correct the records of Mr. Buddha Ram, son of Mr. Chand Singh. Notification of this correction was also sent to Mr. Buddha Ram via Sangrur Mandal's Pith Ankan No. 5829-30 dated 14.12.2022. Additionally, the order references the approval granted by the Council of Ministers in its meeting held on 17.09.2015, wherein the Chairman of the Screening Review Committee finalized the selection as of 09.11.2011, covering the period up to 31.12.2006. This approval pertained to the list of daily wage workers, with further approval for the remaining daily wage workers also granted during the Council's meeting on 17.09.2015. Following this, a letter was sent to Mr. Buddha Ram under No. 5323 dated 03.01.2017 regarding the Punjab Ad Hoc, Contractual, Daily Wage, Temporary Work- Charged, and Outsourced Employees Welfare Act, 2016. The letter instructed to petitioner that the original medical report should be submitted to the office after conducting the medical examination.”

3. Thereafter, the medical was also got done of late Budh Ram on 03.01.2017, Annexure P-12, for which even the fee was also deposited and he passed away on 18.08.2023, which reads thus:

“From
Divisional Forests Officer,
Sangrur.
To
The Civil Surgeon,
Sangrur.

Sub About Medical Examination

That Sh. Budh Ram son of Sh. Chand Singh Village Ghanaur Kalan, District Sangrur has been working as Daily Wage Workers in the Forests Division Sangrur. This Forests Division is to consider him for recruitment of Beldar So, it is requested that he may be medically examined and medical fitness certificate as per the provisions of Rule 3.1 of Punjab Civil Service Rules Vol.1 Part -1 may kindly be issued.

Sd Divisional Forests Officer



Sangrur.

Endst.No. 5323

Dated 03.01.2017

A copy to Sh. Budh Ram son of Sh. Chand Singh Village Ghanaur Kalan, District Sangrur and by sending it is written to him that after getting himself examined the original medical report may be sent to this office.

Sd Divisional Forests Officer
Sangrur.

Comrade Jagdish Chander Freedom Fighter
Punjab Health System Corporation,
Civil Hospital, Sangrur

Book No.2934

Receipt No.055

Dated 12.1.17

Received rupees 300, from Sh./Smt. Budh Ram, 5984
regarding medical examination.
Rupees 300/-

Sd
Signature of receiver”

4. The medical certificate was also duly submitted to the Divisional Forest Officer, Sangrur, as has been averred in para 15 of the petition, which is an admitted fact.

5. Learned counsel for the petitioner refers to the judgment of this Court in **Amrish Sharma and Others vs. State of Punjab and Others**, CWP-19238-2013, decided on 26.02.2024, in particular to the following paras, that covers his case, which read thus:

“45. The State Government w.e.f. 01.01.2004 has stopped Pension Scheme and there is no contribution of petitioners and State in the contributory fund (New Pension Scheme), thus, in the present case, order to pay pension would not be practical as well as executable. It would be in the interest of justice and fitness of thing if petitioners who have superannuated or passed away after completing service of 20 years are extended benefit of minimum of pay scale plus dearness allowance and grade pay for the period beyond service of 10 years. Accordingly, State is directed to calculate its liability qua these petitioners and pay within 6 months from today.

46. As per few petitioners, they have completed service



of 10 years by 31.12.2006, however, respondent has either destroyed or fudged its record. The petitioners are having documentary evidence to prove that they had completed service of 10 years. The petitioners are at liberty to submit available evidence to the respondent who while deciding question of 10 years service shall consider it.

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.”

6. The aforesaid facts having been brought out, during the course of



hearing, learned State counsel sought instructions and thus states that the respondents would not be averse to having a relook at the matter and decided afresh within a period of 6 months.

7. The matter stands disposed of accordingly and if the petitioner is found entitled, grant the benefit forthwith. Needless to say, if the orders are adverse to their interest, the same may be passed after granting opportunity of hearing to them and shall contain reason, whereupon the LRs of the petitioner shall be free to seek legal redress thereupon.

(AMAN CHAUDHARY)
JUDGE

16.01.2025
M.Kamra

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