



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

211

**CWP-37551-2018
Date of decision: 28.01.2025**

AMAR SINGH (NOW DECEASED) THROUGH LRSPetitioners

VERSUS

STATE OF HARYANA AND ANOTHERRespondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Manu K. Bhandari, Advocate with
Mr. Rohit Kataria, Advocate
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

Even though prayer made in the present writ petition was to regularize the services of the petitioner w.e.f. 01.02.1999 alongwith all consequential benefits, however, during the course of arguments, Counsel for the petitioner confines his prayer for regularization of his services under the policy of 11.03.2011/27.12.2012/20.12.2014/02.08.2017 and 08.02.2018.

2. Learned Counsel appearing on behalf of the petitioner contends that the petitioner was appointed as a part time Sweeper in the AYUSH Department of Haryana on 02.01.1986 after his name was sponsored through the Employment Exchange. The petitioner continued to serve the said



department and remain posted as a part time Sweeper at the Government Ayurvedic Dispensary, Rasidpur, Ambala ever since his date of joining. He contends that the petitioner had earlier filed CWP-14045 of 1998 titled as ***“Gian Chand and others versus State of Haryana and others”*** claiming regularization, which was disposed of by this Court with a direction to the respondents to consider his claim in terms of the policy dated 01.02.1999 notified by the State of Haryana. It is submitted that the claim of the petitioner for regularization under the said policy had been rejected by the respondents on the ground that no posts were available.

3. Some of similarly placed persons had later filed ***CWP-5926 of 2001*** titled ***“Vidya Devi and others versus State of Haryana”*** in which question for consideration before this Court was as to whether part time workers are entitled to be regularized in service in terms of the policy dated 01.02.1999 or not. The said writ petition was disposed of vide judgment dated 20.02.2002 by issuing the following directions:-

"Keeping in view the facts and circumstances of the case, the statement made on behalf of the State and in order to resolve this prolonged dispute, we would issue direction so as to enable the State to act effectively within the frame-work of its policy and to achieve the ends of justice by granting to the petitioners what is due to them in accordance with law. Thus, we issue the following directions:-

- i) *The case of the petitioners for regularization as part-time employees would be considered by the State within a period of six months in*



the light of its policy dated December 30, 1998/ February 25, 1999;

- ii) *The claim of the petitioners would not be declined on the ground that they do not possess the essential qualifications as stipulated in the said policy (as per the statement made in the Court by Mr. Amol Rattan, learned Assistant Advocate General) upon the instructions of the State:*
- iii) *The State shall appoint the Sub-Committee headed by an officer not below the rank of Under Secretary to Government of the State to examine the building, infrastructure, staff and number of children studying in every school of the State of Haryana and in the light of that to recommend how many regular posts can be created in every school depending on the work and the strength of the employees and students. The committee shall consider the availability of the posts as and when it became available/ vacant in a particular school to identify the total number of posts which can be filled up as of now, under the policy of the Government.*
- iv) *We also consider it appropriate that the Committee afore-stated shall hear the part-time employees in a representative capacity before determining the criteria to implement this order.*

Thereupon services of the petitioners would, thus be regularized in the above terms. All these



petitions are disposed of in the above terms directing the State to comply with the above directions within a period of six months from today. It is made clear that no further extension would be allowed for this exercise."

4. The aforesaid judgment of 20.02.2002 was subject matter of challenge in Special Leave Petition before the Hon'ble Supreme Court in the matter of ***"State of Haryana and others versus Ruldu Ram and others"***. The said petition was dismissed by the Hon'ble Supreme Court of India vide judgment dated 22.03.2010. Faced with the above and having no option but to regularize the services of part time workers, the Chief Secretary to Government of Haryana addressed a letter of 25.02.2011 thereby ordering that since the order passed by the High Court has attained finality, the Department should take appropriate action for regularizing the service of daily part time workers at their own end. In compliance thereto, other departments viz. the Education Department etc. implemented the same and gave ante-dated regularization to the similarly placed employees. Copies of some of the orders of regularization of similarly placed persons have been appended alongwith the present writ petition as Annexure P-7 collectively. He contends that notwithstanding the aforesaid developments, no steps were however taken by the respondents herein to regularize the service of the petitioner despite the petitioner having been medically examined and the report having been sent by the Ayurvedic Medical Officer to the District Unani Officer. He contends that other similarly placed employees as well as persons who were junior to the petitioner had since then been regularized by



the department but the parity was not extended to the petitioner who had been denied all the said benefits.

5. Attention of this Court is also drawn to the order dated 19.12.2018 passed by this Court wherein contention of the petitioner was noticed and the respondent-State was directed to consider the case of the petitioner for regularization from the date of his appointment in view of the judgment dated 04.10.2018 passed in CWP-2009-2016 titled '**Balwinder Singh and others versus State of Haryana and others**'. Reference is also made to the affidavit dated 05.08.2024 filed by the Assistant Director, Ayush Department in compliance to the order dated 08.05.2024 calling upon the respondents to furnish the seniority position of the petitioner and availability of the post in the year 2011. He contends that as per the aforesaid affidavit, it is not in dispute that the petitioner had been appointed as a part time Sweeper, G.A.D. Rasidpur, District Ambala on 04.01.1986 and continued to work as a part time Sweeper approximately for 32 years before he passed away on 12.09.2020. It is also stated that a regularization policy dated 29.07.2011 for regularization of service was issued for ad hoc/contract/part time employee etc. subject to fulfillment of the following conditions:-

- (i) *That the employee/worker should have continued to work for not less than ten years as on 10.4.2006 and is still in service but not under cover of the orders of the Courts or Tribunals, against duly sanctioned vacant posts. The period of continuous break in*



such service should not be more than one month in a calendar year.

- (ii) *That the employee/worker possessed the minimum prescribed qualifications for the post on the date of appointment/engagement.*
- iii) *That the concerned employee should have been appointed only after either his name has been sponsored by the Employment Exchange or has been appointed/engaged on the basis of recommendations made by the Departmental Selection Committee by inviting applications through advertisement against duly sanctioned vacant post.*
- (iv) *That the employee should be regularized against a sanctioned vacant post of relevant category.*
- (v) *A part time employee fulfilling conditions mentioned above shall be regularized against a sanctioned vacant fulltime post of the same category.*

6. He submits that notwithstanding that the directions in question were to be applied to all similarly placed persons, however, the services of the petitioner were still not regularized.

7. He further contends that as per the aforesaid affidavit filed by the respondents, the name of the husband of the petitioner figured at Serial no. 91 whereas Randhir Singh son of Khuda Ram who was appointed as part time Sweeper at GAD Saunta, District Ambala on 23.03.1989 and was at



Serial No. 139 had already been regularized. It is contended that hence, persons junior to the Amar Singh have already been regularized whereas the benefit of regularization has not been given to the petitioner.

8. Counsel for the petitioner has also placed reliance on the judgment dated 20.12.2024 passed by Hon'ble the Supreme Court in the matter of ***“Jaggo versus Union of India and others”*** arising out of ***SLP (C) No. 5580 of 2024***. The relevant extract thereof reads thus:-

“17. As for the argument relating to educational qualifications, we find it untenable in the present context. The nature of duties the appellants performed-cleaning, sweeping, dusting, and gardening-does not inherently mandate formal educational prerequisites. It would be unjust to rely on educational criteria that were never central to their engagement or the performance of their duties for decades. Moreover, the respondents themselves have, by their conduct, shown that such criteria were not strictly enforced in other cases of regularization. The appellants' long-standing satisfactory performance itself attests to their capability to discharge these functions, making rigid insistence on formal education requirements an unreasonable hurdle.”

9. Learned Counsel appearing on behalf of the respondent-State, however, refers to the aforesaid affidavit and contends that the petitioner-Amar Singh (since deceased), even though senior to Randhir Singh son of Khuda Ram (supra) could not be regularized since he was illiterate and



could not produce any certificate of qualification which was one of the essential conditions of the notification dated 29.07.2011.

10. He further contends that a person claiming benefit of regularization was required to fulfill the academic qualifications as prescribed in the applicable service rules. It is contended that as per the service rules applicable to the deceased-Amar Singh in the respective department, knowledge of the regional languages as well as of English language, as may be prescribed by the Government from time to time, was the essential academic qualification.

11. Reliance is placed on condition No. 5 (d) which is extracted as under:-

“Possess the requisite knowledge of the regional languages and of English as may be prescribed by the Government from time to time.

12. The rest of the contentions were, however, not disputed or denied.

13. Taking into the consideration the circumstances noticed above, it is evident that the claim of the deceased petitioner for regularization in terms of the policy of 2011 with effect from the date when his juniors were promoted has been denied solely on the basis of condition No. 5 (d) of the said policy as per which the petitioner (since deceased) did not have any academic qualification referred to therein.

14. I find that in view of the undisputed position that the deceased petitioner had been engaged in the service with the respondent in the year 1986 and had served as such till he passed away in 2020, having rendered 32



years of service, the reliance on condition No. 5 (d) would be irrelevant. The said condition does not prescribed any minimum academic qualification or certificate required to be obtained by a person working as a part time Sweeper and the only requirement prescribed was that he/she should possess the requisite knowledge of the regional language and of English as may be prescribed by the Government from time to time. In the absence of any record/report that deceased Amar Singh did not possess knowledge of regional language or English language as prescribed from time to time, there can not be any presumption that the said respondent did not fulfill the essential conditions for consideration of his claim for regularization in terms of the policy of 2011. Surprisingly, the respondents, in the said affidavit had submitted that no educational qualification certificate in support of his claim had been furnished by Amar Singh, however, they have not referred to any condition as per which any specific academic qualification was required to be possessed by a person seeking appointment/regularization against the post of Sweeper. Working knowledge of the regional language and English language was the only criteria prescribed for being regularized to the post of Sweeper and in the given facts scenario where the deceased had already served for a period of 32 years, it cannot be assumed that he would not have working knowledge of the regional language or the English language as would be essential for him to assist and discharge his duties.

15. I find that the rejection of the claim solely on the aforesaid basis is a gross ministerial exercise undertaken by the respondents which have taken no recanting of the actual ground realities. The entire time



rendered by the petitioner to the said post without any complaint or blanch has thus gone unnoticed. The deprivation of the benefit of regularization on such whimsical grounds which are not substantiated or supported by any evidence and by referring to lack of academic qualification whereas no such requirement has been prescribed in the regularization policy would be forcing an employee to an unnecessary litigation.

16. Significantly, one of the directions given by this Court in its judgment dated 20.02.2002 in the matter of *Vidya Devi supra* i.e. that the claim for regularization shall not be declined only on the ground that the employee does not possess the academic qualification. The said judgment attained finality and subsequent orders were passed in compliance thereto. Hence, the lack of academic qualification could not be cited as the basis to decline benefit of regularization to the person who served for 32 years.

17. Consequently, I find that the reasons given by the respondents are not well founded in law and are not based upon practical application of the regularization policy itself. **The present writ petition is accordingly allowed.**

18. The respondents are directed to regularize the services of the petitioner from the date of policy without insisting upon the alleged qualification/condition referred to in Clause 5 (d) of the policy of March, 2011, alongwith all consequential benefits.

19. Let the needful be done by the respondent-Department within a period of three months of receipt of certified copy of this order.



CWP-37551-2018

-11-

20. It is made clear that in case the admissible benefits, if any, are not released within the aforesaid period of three months, the petitioner/his legal heirs shall be entitled to the said benefits alongwith interest @ 6% per annum from the date they fell due till their actual disbursement.

JANUARY 28, 2025
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No