
(2017) 01 P&H CK 0126
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 866 of 2015

Indu Bala

APPELLANT

Vs

State Of Haryana

RESPONDENT

Date of Decision : 13-01-2017

Acts Referred:

Citation : (2017) 1 LawHerald 267 : (2017) 3 SCT 91

Hon'ble Judges : Mr. Kuldeep Singh, J.

Bench : Single Bench

Advocate : Mr. Shailendra Sharma , Advocate, for the Petitioner; Mr. Naveen Sheoran, DAG, Haryana, for the Respondents

Final Decision : Allowed

Judgement

Kuldeep Singh, J. (Oral) - The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India praying for issuance of a writ of Certiorari for quashing the order dated 08.08.2012 (Annexure P-4) passed by the respondent No. 2 whereby the claim of the petitioner for pension after her retirement was declined simply on the ground that the policy of regularization dated 01.10.2003 was subsequently withdrawn on 25.04.2007 and her case for regularization was not forwarded by the respondent-Department and she retired as Gram Sevika. The writ of mandamus is also prayed to be issued to the respondents directing the respondents to release the pension and arrears of pension along with interest to the petitioner.

2. Brief facts of the case are that the Indu Bala-petitioner was initially appointed as Craft Teacher on ad hoc basis on 10.12.1975 in Panchayat Samiti, Narnaul. Her services were regularized vide order dated 22.11.1982. Later on, after giving relaxation of age, she was appointed as Gram Sevika under the Rural Development and Panchayat in the State of Haryana on purely temporary/adhoc basis. Vide order dated 07.07.1995 (Annexure P-2), she continued to work as such and was given the regular pay scale. She retired as Gram Sevika on 31.08.2010 on attaining the age of superannuation. Now, she claims that she is

entitled to pension after her retirement. She has also impugned the order dated 08.08.2012 (Annexure P-4) vide which the pension has been declined to her.

3. The respondent State in the reply has not disputed the factual position. It has been disclosed in the reply that in the year 2003 it was decided to regularize the services under the policy of regularization dated 01.10.2003 of those Gram Sevikas who were appointed from the Local Bodies. But no such proposal was received from the District Rural Development Agency, Sonipat where the petitioner was employed. Consequently, her services could not be regularized. Vide order dated 25.02.2008, she was transferred to DRDA, Rohtak and retired as ad hoc Gram Sevika on 31.08.2010. It has been pleaded that as per the provisions of Civil Service Rules, an ad hoc employee cannot be granted pension. However, it is further disclosed that as per Rule 3.17A (a) of Punjab Civil Services Rules, Volume II, ad hoc service followed by regularization can be counted towards qualifying service for pensionary benefits. It has also been stated in the reply that the Government vide letter dated 25.04.2007 has withdrawn the policy of regularization dated 01.10.2003 in view of the Hon'ble Supreme Court judgement passed in Uma Devi's case. The petitioner previously approached this Court by way of CWP No. 10684 of 2012 and vide order dated 30.05.2011, this Court had directed the respondents to consider and decide the representation of the petitioner. The representation of the petitioner has been decided by the respondents vide order dated 08.08.2012 (Annexure P-4) vide which the claim of the petitioner was rejected.

4. I have heard learned counsel for both the parties and carefully gone through the case file.

5. The factual position is that the petitioner was initially appointed as Craft Teacher on ad hoc basis on 10.12.1975 and her services as a Craft Teacher was regularized on 22.11.1982. While working on a regular post, she was appointed as Gram Sevika on adhoc basis vide order dated 07.07.1995. Apparently, the post of Craft Teacher was earlier under the Panchayat Samiti but the post of Craft Teacher which was converted into Gram Sevika, came under the District Rural Development Agency. It is also admitted on behalf of the State that in the year 2003, it was decided to regularize the services of those Gram Sevikas who were appointed from the local bodies. Accordingly, the proposal for regularizing the services of those Gram Sevikas were invited under the policy of regularization dated 01.10.2003. It is also not disputed that the concerned District Development Rural Agency, Sonipat, where the petitioner was working, failed to submit the case of the petitioner for regularization. Consequently, her services could not be regularized. Thereafter, the said policy was stated to have been withdrawn on 25.04.2007.

6. I am of the view that services of the petitioner as a Craft Teacher was regularized on 22.11.1982 and at that time, the post of Craft Teacher was under the Panchayat Samiti. Since, the said post was re-designated/converted into Gram Sevika, she was given a fresh appointment letter dated 07.07.1995,

whereby she was appointed on ad hoc basis. In fact, the Government considering the fact that the regular employee have been appointed on ad hoc basis had itself framed a policy of regularization dated 01.10.2003, wherein it was decided to regularize the service of Gram Sevikas, who are appointed from local bodies. However, the case of the petitioner was never submitted by the concerned District Rural Development Agency.

7. I am of the view that once the petitioner has worked as a regular employee and on account of taking over or change of the designation, the same was taken over by the District Rural Development Agency. Since, the regular employee could not be made an ad hoc employee, therefore, the State has rightly decided to regularize the services of such employees on 01.10.2003. If the concerned District Rural Development Agency had not submitted the case of the said employees for regularization, the Government had the list of such appointees and could ask the concerned agency to submit their case. As such services of the petitioner were deserved to be regularized w.e.f. 07.07.1995 when she was appointed from regular post as a Craft Teacher to the ad hoc post of Gram Sevika even though the said policy of regularization has been withdrawn on 25.04.2007. Since, the petitioner was entitled to regularization as per the said policy w.e.f. 07.07.1995, the date on which she was appointed as Gram Sevika, therefore, she can avail the said benefit.

8. In the circumstances, a writ of mandamus is issued for directing the respondents to regularize the services of the petitioner w.e.f. 07.07.1995 as Gram Sevika as per the policy of regularization dated 01.10.2003 and thereafter, compute the entire service of the petitioner as Craft Teacher w.e.f. 10.12.1975 followed by regularisation as a Craft Teacher including services of the petitioner as Gram Sevika and consider her case for grant of pension and other pensionary benefits and pass the necessary order within two months from the date of receipt of certified copy of this order. It is further ordered that interest on the arrears also be released to the petitioner from the date of filing of the present petition i.e. 17.01.2015 as per the government instructions till actual payment is made.

9. In view of the above, the petition stands allowed.