
(1998) 02 P&H CK 0123

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 15602 of 1997

Mange Ram and Others

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 24-02-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 119 PLR 232

Hon'ble Judges : N.C. Khichi, J; Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : B.B. Sharma, for the Appellant; Madan Dev, for the Respondent

Judgement

Jawahar Lal Gupta, J.—The petitioners in Civil Writ Petition Nos. 8199, 15602 and 19057 of 1997 are working as part-time sweepers in different schools etc. in the State of Haryana. The petitioners in C.W.P. No. 19182 of 1997 is working as a Waterman in the Ayurveda Department on part-time basis. The petitioners in all the four cases pray for the issue of a writ of mandamus directing the respondent-authorities to regularise their services. Learned counsel for the parties have referred to the facts in C.W.P. No. 15602 of 1997. These may be briefly noticed.

2. The 33 petitioners are working as part-time sweepers. It has been alleged that petitioner No. 11, Smt. Kamla Devi has been working as such since the year 1968. Others had joined thereafter on different dates. Petitioner No. 3 appears to have joined last of all on January 1, 1993. The petitioners allege that the State Government has been issuing instructions periodically for the regularisation of the services of persons appointed on different posts even on daily wages or work charged basis. The petitioners claim that under the instructions issued by the State Government, they have a right to be considered for the regularisation of their services.

3. The respondents contest the petitioners' claim. A written statement has been filed by the District Education Officer on behalf of the State Government and the

other authorities. It has been inter alia averred that the persons working as part-time Sweepers in different schools are "not eligible for regularisation as there is no provision to regularise the services of part-time employees under the Government policy". It has also been stated that the instruction issued by the Chief Secretary regarding the "regularisation of work charged/casual/daily wage workers, are not applicable to the part-time employees.

4. Counsel for the parties have been heard.

5. It is undoubtedly correct that the employer has the right to determine its needs and to employ persons to perform the duties. It is also the undoubted right of the employer to lay down conditions of eligibility, the duties and the scale of pay etc. for different posts. Still further, we have no doubt that very often appointments have been made to different posts without following any definite procedure or making any proper selection. A large number of persons have managed to enter the services of the State by one or the other method. Having got the jobs, they have also been able to persuade the authorities to periodically issue instructions for the regularisation of their services. These instructions have largely been used to regularise the irregular appointments.

6. Be that as it may, the fact remains that the State Government has been periodically issuing instructions and regularising the services of even those persons who had been employed on daily wages or purely work-charged basis. As against this, the persons like the petitioners in those cases have continued to work for long periods of time only on part time basis. They have been paid at very low rates as sanctioned from time to time. The injustice of the situation is obvious from the fact that one of the petitioners has been working as a Sweeper on part-time basis for the last 30 years. Still, such a person has no regular post, no regular scale of pay and no security of service. This, to say the least, is not fair.

7. It was pointed out on behalf of the respondents that the part-time Sweepers etc. work only for a few hours during the day. The statement was controverted on behalf of the petitioner. However, even if it is assumed that the part-time Sweepers as also the other similar employees work only for a few hours during the day, the fact remains that they perform the duties which are assigned to them. It is also not in dispute that there is a need for the employment of Sweepers etc. or even Watermen in different institutions throughout the State. In this situation, we find no justification for the continued uncertainty that exists. If in the case of persons working on daily wages, the State Government considers it appropriate to provide a regular appointment on a post with a regular scale of pay, we find no ground to deny a similar relief to the persons working as Sweepers, Watermen or on similar other posts. It is time that the State Government drew up a policy to ensure that persons like the petitioners in these cases are also considered for regularisation.

8. In view of the above, we dispose of these petitions with a direction that the

Slate Government should draw-up a policy laying down the criteria and conditions subject to which the eligible persons shall be entitled to hold posts on regular basis. The State shall be free to fix the scale of pay etc. in accordance with the nature of duties. The needful should be done within three months from the date of receipt of a copy of this order. After the policy decision has been taken, the claims of individuals should be considered within three months thereof. The orders that may be passed shall be communicated to the persons concerned. The services of the petitioners shall not be terminated till the appropriate authority takes the final decision except on grounds of discipline. In the circumstances, we make no order as to costs.