

2023:PHHC:084652

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-22575-2015 (O&M)

Date of Decision: 05.07.2023

Pushpa Devi

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. P.K. Goklaney, Advocate with
Mr. Ashish Goklaney, Advocate
for the petitioner.

Mr. Vishnav Gandhi, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)**CM-15529-CWP-2022**

For the reasons mentioned in the application, the same is allowed and the replication on behalf of the petitioner is taken on record.

Main case

1. The petitioner by way of this Writ Petition claims regularization for the post of Clerk and prays for quashing of the decision taken by the Chief Engineer in terms of the directions passed by this Court in *CWP-14377-2014* titled as '*Pushpa Devi vs. State of Punjab and others*' decided on 24.07.2014.
2. Learned counsel for the petitioner submits that the petitioner was appointed as a Bill Clerk on 01.11.1996 on daily wages basis in the office of the Superintending Engineer, Water Supply and Sanitation

Circle, Ludhiana where she worked continuously up to 03.02.1997. The petitioner was wrongfully retrenched and she challenged her retrenchment before the Industrial Tribunal and Labour Court who passed an award in her favour reinstating her with 50% back wages.

3. Learned counsel submits that the period of service therefore has to be counted from the date of her initial appointment from 1996 and as she is still working and has therefore put in about 30 years of service, the petitioner is entitled to be placed in the regular cadre of clerk and to receive regular salary.
4. *Per contra*, learned counsel appearing for the respondent submits that the period during which the petitioner has not worked and was out of job cannot be counted for the purpose of considering her case for regularization.
5. I have considered the submissions.
6. As per the circular issued by the Punjab Government dated 18.03.2011, it is provided as under:

“i) Those daily wager/workcharge employees, who are having 10 years service to their credit as on December 2006, for the regularization of their services, posts be created in the concerned department and against these posts, those officials fulfill the education qualification and other condition, be regularized.”

7. Since the petitioner was appointed in 1996, as on December, 2006 she would be deemed to have put in 10 years of service and the view taken by the department is apparently erroneous as the award passed by the Labour Court/Industrial Tribunal was not challenged by the respondents. It has attained finality granting 50% back wages resulting in the petitioner's services to be treated as continuous from the date of initial appointment.

8. Accordingly, the petitioner would be entitled to the benefit of the aforesaid provision and she is entitled to be regularized.
9. Regarding the other ground taken by the respondent for denying regularization that she has not completed 120 hours course of computer from any recognized institution, this Court is of the view that the petitioner who has already put in about 30 years of service cannot be denied benefit of regularization on account of the said aspect. It is the duty of the State Government and its department to provide opportunity to its employees especially a female employee to be given benefit of higher education by sending her for further training. The same can also be done after having regularized her on the said post.
10. In view thereof, the order passed by the Chief Engineer dated 20.04.2015 is hereby quashed. The respondents are directed to pass orders accordingly within a period of 3 months with all consequential benefits.
11. Petition is accordingly allowed.
12. No costs.

(SANJEEV PRAKASH SHARMA)
JUDGE

July 05, 2023

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| 1. Whether speaking/reasoned? | <i>Yes/No</i> |
| 2. Whether reportable? | <i>Yes/No</i> |