

2023:PHHC:132084

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-28656-2013 (O&M)

Date of Decision: 11.10.2023

Nisha Rani

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

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

Mr. Vishnav Gandhi, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The question raised before this Court is no more *res integra*. The only reason for denying regularization benefit to the petitioner of the circular/policy issued by the State government dated 18.03.2011 is for the reason that Department of High Education is not in the list of departments mentioned in the annexure appended to the policy dated 18.03.2011.
2. The respondents have not been able to give out any reason for not including the Department of Higher Education in the said annexure.
3. The aspect with regard to the daily wagers and ad hoc employees working in the other departments of the State government which had not been included in annexure appended to the policy of the State government dated 18.03.2011 was examined by this Court at length in the judgment rendered in *CWP-24337-2012 in 'Shri Pal and others vs.*

State of Punjab and others' decided on 17.08.2015, wherein this Court after considering the law relating to the regularization and after considering the law laid down in *State of Karnataka and others vs. Umadevi, (2006) 4 SCC 1, and Maharashtra State Road Transport Corporation Ltd. vs. Casteribe Rajya Parivahan Karamchari Sanghalana, (2009) 8 SCC 556*, as well as the Full Bench judgment rendered by this Court in *Municipal Council, Dina Nagar vs. Presiding Officer, Labour Court, Gurdaspur and another, in LPA-754-2010*, held as under:

“7. Resultantly, any action of the State which amounts to unfair discrimination will have to be redressed by this Court as a primary administrator of unfair discrimination without relegating aggrieved workmen to alternative remedies before the labour court which are tardy and cumbersome provided disputed question of fact are not involved, then the writ court is the speedy and efficacious remedy.

8. I find no substance in the stand of the respondent State and any distinction sought to be drawn artificially between the departments of the Government by excluding the Welfare Department, Punjab would hold no water in the face of mandates of twin facts of unfair discrimination and reasonableness in Articles 14 of the COI. The stand of the State in para. 10 is not approved and is set aside as infringing of the equal protection clause in Article 14 of the Constitution. I also find no reasonable classification in selecting a few departments for preferential treatment for the purposes of regularization of workmen who have suffered long drawn out exploitative Employment for over well over two decades.”

4. The aforesaid judgment has attained finality and no challenge in LPA was made by the respondents.

5. Again in another case in *CWP-24735-2015 in Mahavir Singh vs. State of Punjab and others*, decided on 19.04.2017, this Court followed the law laid down in *Shri Pal and other* (supra), and held the Department of Sports to also come within the ambit of the regularization policy and directed the concerned petitioner to be considered for regularization.
6. In a subsequent case, in *CWP-11427-2015 in 'Sukhjad Singh and others vs. State of Punjab and another*, decided on 19.12.2018, another Coordinate Bench followed the above two judgments and again directed for including the Department of Health and Family Welfare in the list of departments. The said judgment was implemented and at the same time, LPA was also preferred which was dismissed by the Division Bench of course on the question of limitation.
7. However, the fact remains that the respondents have been consistently accepting the judgment of the Court passed initially in the case of *Shri Pal and others* (supra), and the persons who have been working for 3 years or more have been regularized, provided they fulfilled the other conditions laid down in the policy.
8. In view of above, if the case of the petitioner is examined, as pointed out by the learned counsel for the petitioner, it is noticed that the petitioner was selected by way of an open advertisement on the post of clerk against a vacant post, and she has been transferred from one place to another also while working on contract basis as a clerk. Thus, as per the policy relating to regularization issued by the State Government, she fulfils the conditions. This Court directed the

respondents to accordingly consider her representation within a period of three months.

9. However, by the impugned order dated 03.07.2013, her case for regularization was rejected solely on the ground that Department of Higher Education is not in the list of departments mentioned in the said annexure.
10. The petitioner therefore otherwise fills the conditions laid down in the policy/circular dated 18.03.2011 and she deserves to be regularized, once the embargo relating to Department of High Education not being in the policy is lifted.
11. Having noticed the judgments passed by this Court (supra), this Court is satisfied that there can be no discrimination between the various departments of the State Government with regard to the policy of regularization issued as a one-time measure to give relief to the daily wagers who have been appointed by a transparent method of selection, though on contract basis or on ad hoc basis.
12. Accordingly, the writ petition is **allowed**. The respondents shall pass appropriate orders for regularization of the petitioner on the post of clerk from the date she completes three years of her service as ad hoc/contractual clerk and also give her all the consequential benefits.
13. This Court finds that in several cases, litigation is unnecessarily coming up before this Court in spite of settled law. The State Government is directed to examine all the cases which are pending before this Court in relation to the aforesaid issue and take steps for disposal of such cases. Similar cases can be taken up before the Lok

Adalat and by giving a list to the High Court, benefit of artificial intelligence for getting the search of such matters can also be done by the State Government at their own level, so that similar cases may also be disposed of accordingly.

14.The implementation of the judgment shall be made expeditiously, preferably within a period of two months.

15. Writ Petition stands *allowed*.

16.All pending applications also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

October 11, 2023

Mohit goyal

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No