

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

**CWP-17855-2016 (O&M).
Date of Decision: 24.07.2019**

Manpreet Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. Kapil Kakkar, Advocate,
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

JITENDRA CHAUHAN J.

Through the instant civil writ petition, the petitioner has sought issuance of a direction to the respondents to regularize her services pleading that she has been continuously working for the last more than 10 years as a part time sweeper to the complete satisfaction of the authorities and there is no complaint against her.

Briefly stating, the petitioner, a matriculate, was appointed as part time sweeper in the office of Treasury Officer, Khamano on 9.5.2006 and since then she has been performing her duties with honesty and due diligence and there is no complaint against her. The petitioner seeks issuance of directions in pursuance to a decision rendered by a Division Bench of this Court in CWP-13565 of 1997 (Annexure P-3), wherein a direction was issued to the respondents to

frame a policy for regularization of services of part time employees and thereafter, to consider their claim for regularization in accordance with the policy. It is stated that though, the petitioner has been working with the respondent Department for the last more than 10 years to the complete satisfaction of the respondents but as her services have not been regularized. A legal notice dated 13.6.2016 (Annexure P-6) was also served upon respondent Nos.2 & 3.

Upon notice, the respondents have filed reply admitting that the petitioner was engaged as part time Sweeper on 9.5.2006 and she is being paid wages fixed by the Deputy Commissioner from time to time in accordance with the hours of work of part time workers.

In paragraph No.1 of the preliminary submissions, it has been pleaded by the respondents as under:-

“xxxIt is further submitted that there is no sanctioned post of Sweeper in the office of respondent No.4 There is no need of Sweeper because there is no toilet and bathroom in the Treasury Office, Khamanon. There is only one room, small verandah and stairs in basement. The work to clean one room, small verandah and stair is hardly 1 hour.”

Heard.

While issuing notice of motion, the following order was passed by this Court:-

“Petitioner is working as a Part Time Sweeper in the office of Treasury Officer, Khamano, Distt. Fatehgarh Sahib since 9.5.2006. In the light of 10 years' service she is claiming regularization of her

*part time service in view of the policy dated 4.3.1999 or any other policy which the State may frame from time to time pursuant to the directions issued by this Court in LPA 771/2015 **State of Punjab and others v Surjit Kaur**, decided on 29.4.2016(P-7).”*

In LPA 771 of 2015, the following directions were issued by a Division Bench of this Court:-

*We are sure that the State of Punjab will look into this aspect of the matter and re-structure the policy in such a manner that services of Class IV part-time employees are regularized at least before one attains the age of retirement and in case, regular vacancy does not become available, in that case, such employee shall be taken to have been made regular immediate before his retirement. Such a liberal and pragmatic interpretation is the only effective modicum to achieve its object. Suffice to observe that recourse to such a policy decision is permissible under the mandate of Constitution Bench decision in **Secretary, State Of Karnataka And others vs Umadevi And Others**, 2006(4) SCC 1.*

In the light of the above discussion, the respondent is held entitled to the benefits of liberal construction of the policy as have been granted by the learned Single Judge.”

As per affidavit dated 27.09.2017 of respondent No.4, vide order dated 12.07.2017 (Annexure R-1) passed by respondent No.1, sanction for engaging part time Sweepers on hourly basis was received in the office of respondent No.4 on 20.07.2017.

The plea that there is 'no sanctioned post' of sweeper in the office of respondent No.4, came up for consideration before a Coordinate Bench of this Court in CWP-1933-2014, titled as Kanta Rani Vs. State of Punjab and others, decided on 28.10.2014 (Annexure P-5), wherein it was held as under:-

“The second argument of the ld. Counsel for the respondents that there is no sanctioned post of Sweeper in the office of respondent No.4 is also liable to be rejected. The petitioner has been continuously working with respondent No.4 since 1984. this necessarily implies that there is need for a Sweeper in the office of respondent. In fact, judicial notice can be taken of the fact that in every office there is necessity of at least one sweeper, and in bigger offices the requirement would be more. It has not been stated by the respondents that apart from the petitioner there are any other Sweepers working in the office of respondent No.4.”

Further, the respondents have failed to satisfy this Court as to how the services of the petitioner are not required at this stage especially when as per record, she is working as part time sweeper for the last more than 10 years. The respondents have tried to explain that the services of the petitioner were required for one hour only and she had worked as Anganwari worker till 03.06.2016 and from December 2009 to June 2016 she worked as a Helper. The plea raised by the respondents is not acceptable in view of the fact that the petitioner is continuously working as part time Sweeper. Her being a Anganwari

Worker or a Helper would not *ipso facto* disentitle the petitioner from claiming regularization to the post of Sweeper. The petitioner's right to earn cannot be taken away by the State, which is perceived as a model employer.

In the 21st century wherein Chandrayaan-2 Mission has been successfully launched, the obsolete plea that there is no toilet/bathroom in the Treasury Office, Khamano, projects the State in bad light. Not only injustice is being done to the petitioner alone, in fact, the State is not fair to its other employees as well and has not discharged its duties in providing the minimum basic amenities to its employees and the members of the public who visits the office to avail the services provided by the department.

In view of above, the present writ petition is allowed. The respondents are directed to regularize the services of the petitioner as Sweeper. The necessary exercise be done within a period of eight weeks from the date of receipt of certified copy of the judgment.

The respondents are further directed to pay costs of Rs.25,000/- for raising frivolous and totally unacceptable plea that a government office does not have the basic amenities, to be deposited with the Punjab and Haryana High Court Bar Association Welfare Fund within three months from the date of receipt of certified copy of the judgment.

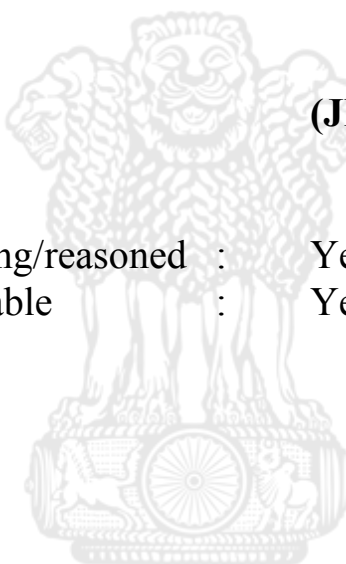
A copy of the judgment be sent to the Chief Secretary,

Punjab for information and taking remedial measures and to ensure that the basic amenities are provided to the employees as well as to the consumers of their services. The Chief Secretary will ensure that these facilities are created expeditiously preferably within six months by making appropriate provisions either in the existing schemes or by launching a special drive and will also consider the case of the identically placed Sweepers for regularization of their services.

24.07.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No



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