

2025:PHHC:044989



**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

241

CWP-8037-2021

Date of Decision: 02.04.2025

PREM DEVI

... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Manoj Chahal, Advocate
for the petitioner.

Mr. Rahul Dev, Addl. A.G., Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the order dated 18.02.2021, whereby the claim of the petitioner for seeking regularization, has been dismissed. A further prayer has been made for directing the respondents to regularize the services of the petitioner w.e.f. 01.02.1999 under the policy dated 01.02.1999 (Annexure P-1) or in an alternate w.e.f. 29.07.2011 under the policy dated 29.07.2011 (Annexure P-3).

Learned counsel for the petitioner contends that the petitioner was appointed as part time Sweeper on 01.01.1985 in the respondent-Department and had been working with the respondents since then. The Government of Haryana issued instructions dated 01.02.1999 to regularize the services of its part-time employees, who had completed 10 years of service. Despite the petitioner fulfilling the prescribed eligibility criteria for regularization under the said

instructions, the services of the petitioner were not regularized notwithstanding that the services of the similarly situated juniors of the petitioner were regularized by the respondent-Department in light of the abovesaid instructions. The petitioner submitted a representation to the respondents to regularize her services under the said instructions, however, no heed was paid to the same. During the pendency of the consideration of the said representation, the Government of Haryana issued further instructions dated 29.07.2011 to regularize the services of the part-time employees who had completed 10 years' service prior to 11.04.2006. The petitioner being eligible applied under the same and the representation was submitted on 09.09.2014 but no decision was taken even thereupon. A legal notice was consequently served by the petitioner upon the respondents on 07.08.2020 but the same also not responded to by the respondents. The petitioner accordingly approached this Court by filing CWP No.21016 of 2020 seeking regularization under the said policy. The said writ petition was disposed of by this Court vide order dated 08.12.2020 directing the respondents to decide the legal notice within a period of eight weeks. In compliance thereto, the impugned order dated 18.02.2021 (Annexure P-7) has been passed by the respondents by noticing as under:

“Smt. Prem Devi is working as Part Time Sweeper at Sorkhi Nahar Kothi District Hisar under Sub Divisional Officer, Sorkhi Water Sub Division, Sorkhi. The record reveals that Smt. Prem Devi was engaged as Part Time Sweeper and she has been working on part time basis i.e. four hours on every working day. The working period is in the morning hours and after those four hours Smt. Prem Devi is free to work anywhere. The policy for regularization dated 1.2.1999 as claimed by Smt. Prem Devi petitioner for her regularization have been perused. Smt. Prem Devi was not found eligible for

regularization under either of this policy at that relevant time. The above said policy of regularization have been withdrawn by the State Government vide letter No.43/31/06-(IGS) dated 25.04.2007 in view of the judgment by the Constitutional Bench of Hon'ble Supreme Court in the case titled State of Karnataka Vs. Uma Devi. Smt. Prem Devi was not appointed through any Employment Exchange, against advertisement of this post or by adopting any recruitment procedure. She is also not entitled for regularization under policy 29.7.2011. The petitioner is not found eligible for regularization of service under policies dated 1.2.1999 and 29.7.2011. Hence the claim for regularization of service of Smt. Prem Devi is hereby declined.”

Learned counsel for the petitioner argues that the claim of the petitioner has been declined on the ground that petitioner was not found eligible for regularization under either of the policies at the relevant point of time and was rather for the reason that the regularization policy was withdrawn by the State Government vide letter dated 25.04.2007, in view of the judgment of Constitutional Bench of the Hon'ble Supreme Court passed in the matter of ***State of Karnataka Versus Uma Devi*** reported as ***AIR 2006 SC 1806***. Further, the second reason assigned is that the petitioner had not been appointed through the employment exchange against the advertisement of the post or by adopting any recruitment process, hence, she was not eligible under the regularization policy of 29.07.2011 as well.

Learned Counsel for the petitioner submits that the said reasons for declining the claim of the petitioner are fallacious inasmuch as only the policy of 1999 had been withdrawn by the respondents consequent upon the decision in the matter of ***Uma Devi (supra)*** vide notification dated 25.04.2007 and the subsequent policy dated 29.07.2011 was issued by the respondents in compliance to the liberty

granted by the Hon'ble Supreme Court in the matter of ***Uma Devi (Supra)***, for bringing a onetime regularization policy w.r.t. the employees who have completed more than ten years of service. Hence, the said policy was in vogue as on the date when the application was submitted. He further contends that the so far as the reason of the respondents about the petitioner having been engaged on part-time basis and without the process of the employment exchange is concerned, the Division Bench Judgment of this Court in ***CWP No.189-2018*** in the matter of ***Virender Singh Vs. Dakshin Haryana Bijli Vitran Nigam Ltd. and Others*** dated ***21.07.2022*** has already put the controversy to rest and the regularization has been ordered even w.r.t. the part-time employees who had not been engaged through the process of Employment Exchange or had not been engaged against the sanctioned post.

Learned State Counsel has, however, referred to the judgment in which the regularization policy was set aside by a Division Bench of this Court in CWP No.17206 of 2014 (wrongly mentioned as CWP No.17206 of 2016) decided on 31.05.2018. The said judgment of the Division Bench, however, pertains to the regularization policy notified by the respondents in the year 2014 and does not relate to the regularization policy of 2011. No other argument has been raised by the State Counsel.

On consideration of the rival submissions advanced by the counsel for the respective parties, it is evident that the basis for the respondents to deny the claim of the petitioner for regularization under the Policy of 29.07.2011 that she was engaged on part-time basis without seeking recommendation of her name through the Employment Exchange already stands answered against the respondent-State by the Division Bench of this Court in the judgment dated

21.07.2022 passed in the matter of ***Virender Singh (Supra)***. Hence, the position in law is no longer *res integra*.

It is also uncontroverted that insofar as the judgment dated 31.05.2018 in CWP No.17206 of 2014 is concerned, the same was w.r.t. the policy of regularization notified by the respondent-State in the year 2014 and did not comment on the applicability of the policy of 29.07.2011. The petitioner has claimed her regularization as per the policy of 29.07.2011 and there is no other reason assigned by the respondent-State that as to why the petitioner could or should not be granted the benefit of regularization when such benefit has been granted to other similarly placed persons working in the offices of State of Haryana as well as in the other Statutory Boards and Corporations of the State of Haryana.

The respondent counsel has thus failed to establish legal enforceability of any of the reasons that have been cited in the order declining relief to the petitioner. He has also failed to submit that no person junior to the petitioner has been regularized. Hence, the reasons given in the impugned order can't withstand judicial scrutiny.

The present writ petition is accordingly allowed in terms of the judgment dated 21.07.2022 passed in the matter of ***Virender Singh (supra)***. The respondents are consequently directed to regularize the services of the petitioner in terms of the Policy dated 29.07.2011.

Let the requisite orders be passed by the respondents within a period of two months of the receipt of certified copy of this order. The admissible benefits consequent upon regularization of the petitioner shall be ascertained and all the consequential benefits be released in favour of the petitioner within a further period of two months thereafter, failing which the petitioner shall be entitled to

interest @ 6% per annum on the delayed release of such benefits w.e.f. from the date they fell due till its actual disbursement. The enhanced financial liability, on account of interest, if any, may be recovered from the official(s) held responsible for causing such delay.

Petition is allowed accordingly.

APRIL 02, 2025.

Rajender

**(VINOD S. BHARDWAJ)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*