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

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**CWP-9758-2018 (O&M).
Date of Decision: 27.02.2025.**

SUMAN LATA

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondent(s)

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

Present: Mr. Sunil Kumar Bhardwaj, Advocate,
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

Challenging the order dated 15.02.2018 (Annexure P-15) whereby the claim of the petitioner for regularizing the services of her husband had been rejected in view of the policy dated 18.06.2014 notwithstanding the case having been recommended in view of the regularization policy dated 07.03.1996 and 18.03.1996.

2 Learned counsel appearing on behalf of the petitioner contends that Rajesh Vikram, the deceased husband of the petitioner Suman Lata, was appointed as Mali-cum-Chowkidar in the year 1991 on daily wages with the respondent Department. In the month of October 1993, the services of the

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husband of the petitioner were terminated without passing any order and without assigning any valid reasons. A demand notice under Section 2A of the Industrial Disputes Act, 1947 was hence served upon the respondents on 23.11.1998. Vide award dated 07.11.2002, the order of termination of services of husband of the petitioner was set aside and the respondent Department was directed to reinstate the husband of the petitioner with continuity of service but without back wages.

3 The husband of the petitioner, thereafter, presented an application and submitted joining report in compliance to the award whereupon he was reinstated in service on 01.03.2004. A request for regularization of the services was thereafter submitted by the husband of petitioner, as per the prevailing policy, vide letter dated 08.12.2004. The respondents however declined the case of husband of the petitioner for regularization of the services w.e.f. 01.02.1996 in view of the policy dated 07.03.1996 as there was no sanctioned post available. A request was thus made by the A.E. to the S.E. that a post of Mali-cum-Chowkidar may be sanctioned, after obtaining approval from the competent Authority, w.e.f. 01.02.1996. The said request was forwarded by the Superintending Engineer to the Engineer-in-Chief (for short 'EIC'), Department of Public Health and Engineering, Haryana. A letter dated 06.09.2006 was sent by the Engineer-in-Chief to the Addl. Chief Secretary to the Government of Haryana in the Department of PWD Public Health and Engineering, wherein it was specifically submitted that the husband of the petitioner fulfilled the terms and conditions for regularization of services w.e.f. 01.02.1996 as per the

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regularization policy of 07.03.1996. The EIC further specifically requested for creation of one post of Mali-cum-Chowkidar in Group D in the prescribed pay scale so as to regularize the services of the husband of the petitioner and also to avoid the contempt of Court.

4 The respondent authorities also sought opinion from the Legal Remembrancer who opined that the judgment of the Hon'ble Supreme Court in the matter of *State of Karnataka Vs. Uma Devi Verma reported as (2006) 4 SCC 1* was not applicable and the case of husband of the petitioner was again recommended for regularization, after specifically recording that he fulfilled all the eligibility conditions of the regularization policy of 07.03.1996. It is pointed out that vide letter dated 06.09.2006, the case of the husband of the petitioner was again forwarded by the Superintending Engineer to the EIC after reiterating that he fulfilled the terms and conditions for regularization and that all other similarly placed workmen had already been regularized.

5 The husband of the petitioner presented yet another application through proper channel, on 30.09.2011 for regularization and pleaded all facts and details along with the award passed by the Labour Court. The services were neither regularized nor the claim was considered for passing any appropriate order notwithstanding that large number of similarly placed employees had already been regularized in terms of the policy of 1996/2003. Unfortunately, husband of the petitioner expired on 06.02.2013 and thereafter the petitioner contacted the respondent authorities for grant of financial assistance on account of death of her husband, while in service, but no action

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was taken. Another application was also submitted by the petitioner on 14.08.2015 requesting that since husband of the petitioner had expired during employment with the respondent authorities and had his case for regularization been considered, she would have been entitled to various benefits including the benefit of compassionate appointment which had not been granted to her. A request was made that the claim be considered and all other benefits to which her deceased husband would have been entitled be released to her.

6 It is claimed that the petitioner became entitled for financial assistance, as provided under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006, but the needful was not done. Consequently, the petitioner preferred CWP No.15971 of 2017 seeking regularization of the services of her husband on the grounds set out therein. The said writ petition was disposed of vide order dated 24.07.2017 with a direction to the Executive Engineer, Water Services and Sanitation Division, Panipat to consider the representation of the petitioner and to decide the same within a period of 03 months from the date of receipt of certified copy of the said order. It was in compliance thereto that the respondent Authorities finally passed the order on 15.02.2018 rejecting the claim of the petitioner by making a reference to the regularization policy of 2014.

7 Learned counsel for the petitioner contends that in the written statement filed by the respondents, the claim raised by the petitioner about entitlement of her husband for regularization to the said post w.e.f.

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01.02.1996, in terms of the regularization policy of 07.03.1996/18.03.1996 is not in dispute. However, notwithstanding the same, the said benefits had been denied and even the consequential ex gratia benefits had not been extended to her under the policy of 1996. A legal notice dated 14.08.2008 and subsequent reminders were also sent, however, the respondents did not take any specific decision.

8 Learned state counsel is not in a position to dispute that an award dated 07.11.2002 had been passed in favour of the husband of the petitioner by the Labour Court directing reinstatement with continuity but without back wages. The subsequent writ petition challenging the award dated 07.11.2002 passed by the Labour Court as well as the Letters Patent Appeal have been dismissed by this Court. Even the SLP was dismissed by the Hon'ble Supreme Court of India. The award thus became final and enforceable. The respondents had also implemented the said award and accepted the claim of husband of the petitioner in terms of the regularization policy dated 07.03.1996. Notwithstanding the entire case set up by the petitioner and prior thereto by her deceased husband for regularization under the regularization policy of 07.03.1996, however, the Executive Engineer, Public Health and Engineering, applied the policy of 2014 and dismissed the claim in a mechanical manner.

9 The specific averments contained in the writ petition have not been denied even in the reply that has been filed by the respondents. Hence, they cannot defend the impugned order that has been passed by the Executive Engineer even on the basis of the reply that has been filed.

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10 Considering the aforesaid facts and also the pleadings of the parties and the arguments advanced by the learned counsel for the respective parties before this Court, I am of the opinion that the impugned order dated 15.02.2018 is based upon non-consideration of the relevant policy applicable to the claim of the petitioner and thus the same has resulted in miscarriage of justice and undue denial of the entitlement of the petitioner. Undisputedly, the deceased and thereafter the petitioner have been pursuing for the right which has been recognized by the Department repeatedly in its own correspondence recommending upto the Government, however, while passing the order, its own correspondence and documentation have been clearly ignored by the respondent authorities.

11 In view of the said undisputed facts, the present writ petition is allowed. Impugned order dated 15.02.2018 bearing Memo No.1325-30 (Annexure P-15) declining the claim of the deceased husband of the petitioner for regularization w.e.f. 01.02.1996 in terms of the regularization policy dated 07.03.1996/18.03.1996 by referring to the Policy of 2014 is hereby set aside. The respondent authorities are directed to pass appropriate orders of regularization afresh with effect from the date when similarly placed persons/employees were regularized under the said policy. Further, the consequential benefits as regards *ex gratia* financial assistance under the applicable policy shall also be considered by the respondents and the benefits shall be disbursed to the petitioner within a period of 04 months of receipt of certified copy of this order.

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12 This Court is also at pains to notice the ministerial manner in which the orders have been passed by the respondent authorities completely ignoring their own documentation, much of which would have been generated from the office of the Executive Engineer, Panipat, itself. Despite the same, the petitioner was made to continuously submit representations for claiming what were her rightful dues and to approach this Court twice for the same benefit. Hence, a cost of Rs.50,000/- is also imposed upon respondent No.4 towards litigation cost as well as cost towards unnecessary harassment to the petitioner. It is made clear that in the event the necessary benefits consequent upon the order of regularization and under the *ex gratia* financial assistance are not released to the petitioner within a period of 04 months from the date of receipt of certified copy of this order as aforesaid, the petitioner would be entitled to interest @ 6% per annum on the said amount from the date of filing of the petition till its realization.

February 27, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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