

Would Keep the Matter Under Carpet Perpetually Without Vs. Harbans Singh and Others

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Court : Punjab and Haryana

Decided On : Apr-12-2013

Appellant : Would Keep the Matter Under Carpet Perpetually Without

Respondent : Harbans Singh and Others

Judgement :

LPA No.689 of 2013(O&M) 1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH LPA No.689 of 2013(O&M) Date of decision:

12. 04.2013 Punjab State Power Corporation LTD...Appellant versus Harbans Singh and others Respondents CORAM: Honble Mr.Justice Jasbir Singh, Acting Chief Justice Honble Mr.Justice Inderjit Singh Present: Ms.Radhika Suri, Advocate for the appellant Jasbir Singh, Acting Chief Justice (Oral) This appeal has been filed against an order dated 9.5.2012, passed in CWP 2439.of 2011, vide which, the appellants were directed to frame a policy to regularize services of the ad hoc employees who are working with the appellants for the last more than ten years.Above said direction was issued in terms of an order passed by the Hon'ble Supreme Court in State of Karnataka v Umadevi 2006 (3) SLR 1.

Relevant portion of order under challenge reads thus:- 4.

Having heard learned counsel for the parties, I am of the considered view that regularisation policy of the State, if any, has to be in consonance with the view taken by the Honble Supreme Court in State of Karnataka versus Umadevi, 2006(3) SLR 1.

Within the parameters of such a policy, ad hoc/ work charge employees deserve to be considered for regularisation subject to the availability of post(s) and as per the order of seniority.

This does not mean that the State LPA No.689 of 2013(O&M) 2 would keep the matter under carpet perpetually without any effective relief to the aggrieved employees, on the pretext that no sanctioned posts are available.

In other words, it is equally imperative on the State Government to give effect to its own policy by creating adequate posts depending upon the factors like work-load, allocation of budget to the Education Department and the priority for amenities/ infrastructure to the educational institutions.

5. The Department would be well within its right to create/ sanction limited posts only as per the budgetary allocations.

It may also be true that the creation or sanction of posts is Executives domain with restricted justiciability but does it mean that no post shall be created or sanctioned even if the petitioners retire on attaining the age of superannuation without having been regularised ?.

6. The matter, thus, essentially requires a fresh look by the State authorities who shall consider the same appropriately within six months and in case it is decided to create some posts, to regularise services of part-time employees strictly in order of their seniority and suitability.

If there are already vacant posts, the respondents shall be required to fill up the same by regularising services of eligible and suitable part-time workers as per their seniority within a period of six months.

In terms of ratio of the judgment in Umadevi's case (supra).directions were issued to the appellants to frame a policy to regularize services of the part time employees strictly in order of their seniority and suitability.

Policy was to be framed within six months.

This order was not challenged.

Review application was filed which was disposed of by the learned Single Judge on 12.10.2012, giving more time to the appellants to LPA No.689 of 2013(O&M) 3 do the needful.

Thereafter, the present appeal has been filed.

It is not in dispute that the work do exists with the appellants.

not only as above, the very fact that the employees are working on ad hoc basis for the last more than ten yearRs.clearly establishes that the necessity to keep them exists with the appellants.

The order has been challenged by stating financial constraints.

It is not denied at the time of arguments that the appellants are supplying electricity to the farmers on subsidised basis and electricity bills of the Corporation/government departments worth rupees crores and crores are pending for realization.

An objection has been raised to the order passed by placing on record some new documents which cannot be looked into at this stage.

In view of facts of this case, no case is made out to condone the delay as well.

Accordingly, the appeal and also the application for condonation of delay in filing the same both are dismissed.

(Jasbir Singh) Acting Chief Justice 12.04.2013 (Inderjit Singh) gk Judge

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