

Before Sudhir Mittal, J.

ASHA—Petitioner

versus

STATE OF HARYANA AND OTHERS—Respondents

CWP No. 12184 of 2016

May 14, 2018

Constitution of India, 1950—Forest Department—Regularization of Service—Policy dated October, 2003—The petitioner’s service was terminated and later she was reinstated in service by way of an award of the Labour Court—Demand was for regularization of service as persons identically situated were granted benefit of policy—Held, when the policy was enforced, the petitioner could not have been considered as her services stood terminated—However after her reinstatement to the service, denial of the same relief (as allowed to other employees) would amount to violation of Article 14 of the Constitution of India.

Held, that the contention of learned counsel for the petitioner is that the petitioner was entitled to be considered for regularization in terms of policy dated 01.10.2003, but she could not be considered as her services were terminated. By award of the labour Court, she was reinstated in service. Demand for regularization was again raised but the same has been illegally rejected even though persons identically situated as the petitioner have been granted benefit of Policy dated 01.10.2003. Thus, Article 14 of the Constitution of India, has been violated. Services of the petitioner are also required to be regularized in terms of policy dated 01.10.2003.

(Para 4)

Further held, that the writ petition deserves to be allowed. When the policy dated 01.10.2003, was in force, the petitioner could not have been considered as her services stood terminated. Thereafter, the Labour Court ordered her reinstatement and the award has been complied with. Services of the similarly situated persons have been regularised thereafter, as is evident from Memo dated 07.09.2015, addressed by the Chief Secretary, Government of Haryana to the Chief Conservator of Forests, Haryana. Thus, denial of the same relief to the petitioner would amount to violation of Article 14 of the Constitution of India.

(Para 6)

Deepak Sonak, Advocate, *for the petitioner.*

Gaurav Jindal, A.A.G., Haryana.

SUDHIR MITTAL, J. (oral)

(1) The petitioner seeks quashing of order dated 05.05.2015 (Annexure P-7), whereby her claim for regularization of service, has been rejected.

(2) The petitioner was appointed as *Beldar* in the Forest Department w.e.f. September 1998. Her services were terminated on 31.10.2003. She approached the Labour Court and award dated 25.05.2010 was passed directing reinstatement in service along with continuity and 50% back wages. Thereafter, the petitioner was re-instated in service but the award was challenged before this Court. The award was upheld by this Court however, back wages were denied. The petitioner sought regularization in terms of the policy dated 01.10.2003 (Annexure P-1), but her claim has been rejected vide the order dated 05.05.2015 (Annexure P-7). Hence, the writ petition.

(3) Detailed written statement has been filed on behalf of State and rejoinder thereto has also been filed.

(4) The contention of learned counsel for the petitioner is that the petitioner was entitled to be considered for regularization in terms of policy dated 01.10.2003, but she could not be considered as her services were terminated. By award of the labour Court, she was re-instated in service. Demand for regularization was again raised but the same has been illegally rejected even though persons identically situated as the petitioner have been granted benefit of Policy dated 01.10.2003. Thus, Article 14 of the Constitution of India, has been violated. Services of the petitioner are also required to be regularized in terms of policy dated 01.10.2003.

(5) Learned State counsel supports the order of denial of regularization in terms of Policy dated 01.10.2003. His submission is that the said policy was withdrawn pursuant to the judgment of Hon'ble the Supreme Court of India in *State of Karnataka versus Uma Devi*¹ and thus, the said policy was not in force on the date, the petitioner made a representation. Consequently, the impugned order is justified.

(6) I have heard learned counsel for the parties and am of the

¹ 2006 (4) SCC 1

view that the writ petition deserves to be allowed. When the policy dated 01.10.2003, was in force, the petitioner could not have been considered as her services stood terminated. Thereafter, the Labour Court ordered her reinstatement and the award has been complied with. Services of the similarly situated persons have been regularized thereafter, as is evident from Memo dated 07.09.2015, addressed by the Chief Secretary, Government of Haryana to the Chief Conservator of Forests, Haryana. Thus, denial of the same relief to the petitioner would amount to violation of Article 14 of the Constitution of India. It has been so held in judgment of Hon'ble the Supreme Court of India passed in case *Hari Nandan Prasad and another versus Employer I/R to Mangmt. Of FCI and another*².

(7) Learned State counsel has also argued that the petitioner is not covered by the policy dated 01.10.2003, but has been unable to substantiate the same. The writ petition of identically placed persons has been allowed by this Court vide order of even date passed in *CWP-5908-2015* titled as *Tiraspal and others* versus *State of Hawana and others*. There is no merit in the argument of learned State counsel.

(8) Thus, the writ petition is allowed. The petitioner is directed to be regularized w.e.f. 01.10.2003 along with the consequential benefits within a period of two months from the date of receipt of a certified copy of this order.

Dr. Payel Mehta

² 2014 (2) SCC 190