2025:PHHC:131427

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Reserved on: 16.09.2025
Pronounced on: 22.09.2025

1. CWP-7614-2024 (O&M)

Surinder Singh

....Petitioner

Versus

Punjab State Power Corporation Limited and others

....Respondents

Sr. No.	Connected Case No.	Petitioner(s)	Respondent(s)
2.	CWP-10533-2024	Mangal and others	Punjab State Power Corporation Limited and another
3.	CWP-10534-2024	Jaswinder Singh and others	Punjab State Power Corporation Limited and another
4.	CWP-10540-2024	Sukhjinder Pal and others	Punjab State Power Corporation Limited and others
5.	CWP-10543-2024	Surinder Kumar and another	Punjab State Power Corporation Limited and others
6.	CWP-10544-2024	Rajpal and others	Punjab State Power Corporation Limited and others
7.	CWP-10545-2024 (O&M)	Jiwan Singh and another	Punjab State Power Corporation Limited and another
8.	CWP-10546-2024	Chaman Lal and others	Punjab State Power Corporation Limited and others
9.	CWP-10544-2025	Rana Ram and others	Punjab State Power Corporation Limited and others
10.	CWP-10547-2025	Rajesh Kumar and others	Punjab State Power Corporation Limited and others
11.	CWP-10549-2025	Swaran Kaur	Punjab State Power Corporation Limited and another
12.	CWP-12279-2024 (O&M)	Rajinder Pal	Punjab State Power Corporation Limited and others

13.	CWP-13443-2024	Bir Singh and others	Punjab State Power Corporation Limited and others
14.	CWP-13451-2024	Prem Singh and others	Punjab State Power Corporation Limited and others
15.	CWP-13585-2024	Balwinder Singh and others	Punjab State Power Corporation Limited and others
16.	CWP-13590-2024	Tarsem Singh and another	Punjab State Power Corporation Limited and others
17.	CWP-13765-2024	Shama @ Shyama	Punjab State Power Corporation Limited and another
18.	CWP-13774-2024	Ramesh Singh and others	Punjab State Power Corporation Limited and another
19.	CWP-13776-2024	Sukhwinder Kaur	Punjab State Power Corporation Limited and another
20.	CWP-13861-2024	Kamaljeet Kaur	Punjab State Power Corporation Limited and others
21.	CWP-13896-2024	Prem Singh and others	Punjab State Power Corporation Limited and others
22.	CWP-13949-2024	Jaskaran Singh and others	Punjab State Power Corporation Limited and others
23.	CWP-14007-2024	Kamlesh and others	Punjab State Power Corporation Limited and others
24.	CWP-14579-2024	Jaspal Singh and others	Punjab State Power Corporation Limited and others
25.	CWP-14588-2024 (O&M)	Nathi Ram and others	Punjab State Power Corporation Limited and others
26.	CWP-14812-2024	Ashok Singh and others	Punjab State Power Corporation Limited and others
27.	CWP-14972-2024	Jagser Singh and others	Punjab State Power Corporation Limited and another
28.	CWP-15062-2024	Jagdish Kumar and others	Punjab State Power Corporation Limited and others
29.	CWP-16688-2024	Satnam Singh and others	Punjab State Power Corporation Limited and another
30.	CWP-18266-2024	Ravi Kumar and others	Punjab State Power

			Corporation Limited and others
31.	CWP-18723-2024	Neena Rani and others	Punjab State Power Corporation Limited and others
32.	CWP-18730-2024	Raju and another	Punjab State Power Corporation Limited and others
33.	CWP-19199-2024	Hira Lal	Punjab State Power Corporation Limited and another
34.	CWP-19746-2024	Swaran Kaur	Punjab State Power Corporation Limited and another
35.	CWP-20000-2024	Gurmit Singh and others	Punjab State Power Corporation Limited and another
36.	CWP-20757-2024 (O&M)	Baljinder Kumar and another	Punjab State Power Corporation Limited and others
37.	CWP-20928-2024 (O&M)	Harjinder Singh and others	Punjab State Power Corporation Limited and others
38.	CWP-2303-2025	Jaspal Singh and others	State of Punjab and others
39.	CWP-2443-2025	Vijay	Punjab State Power Corporation Limited and another
40.	CWP-25382-2024	Vidia Rani and another	Punjab State Power Corporation Limited and others
41.	CWP-26396-2024	Charanjit Kaur and another	Punjab State Power Corporation Limited and another
42.	CWP-2654-2025	Harpal Singh and others	Punjab State Power Corporation Limited and another
43.	CWP-2655-2025	Harvinder Kumar	Punjab State Power Corporation Limited and another
44.	CWP-2656-2025	Meena	Punjab State Power Corporation Limited and others
45.	CWP-2658-2025	Gurmeet Singh and others	Punjab State Power Corporation Limited and others
46.	CWP-2661-2025	Saroj Rani and another	Punjab State Power Corporation Limited and others
47.	CWP-2827-2025	Kulvir Singh and others	Punjab State Power Corporation Limited and another
48.	CWP-28819-2024	Ashok Kumar	Punjab State Power

			Corporation Limited and others
49.	CWP-30883-2024	Jagtar Singh	Punjab State Power Corporation Limited and others
50.	CWP-28381-2024	Balwinder Singh	Punjab State Power Corporation Limited and others
51.	CWP-32375-2024	Chamkaur Singh	Punjab State Power Corporation Limited and others
52.	CWP-35302-2024	Satpal Singh	Punjab State Power Corporation Limited and others
53.	CWP-32099-2024	Jaswant Kaur	Punjab State Power Corporation Limited and others
54.	CWP-3263-2025	Rohtas @ Rotash and another	Punjab State Power Corporation Limited and others
55.	CWP-7942-2025	Jaswinder Singh	Punjab State Transmission Corporation Limited and another
56.	CWP-7999-2025	Yusaf Muhamad	Punjab State Power Corporation Limited and others
57.	CWP-848-2025	Joginder Pal	Punjab State Power Corporation Limited and another
58.	CWP-8663-2024	Kela Rani	Punjab State Power Corporation Limited and others
59.	CWP-8777-2024	Charanjit Kaur	Punjab State Power Corporation Limited and others
60.	CWP-9219-2024	Simarjit Kaur	Punjab State Power Corporation Limited and others
61.	CWP-9500-2024	Mandeep Kaur	Punjab State Power Corporation Limited and others
62.	CWP-9546-2025	Avtar Singh	Punjab State Power Corporation Limited and another
63.	CWP-9601-2024 (O&M)	Sher Singh and others	Punjab State Power Corporation Limited and others
64.	CWP-9972-2024	Budh Parkash and another	Punjab State Power Corporation Limited and another
65.	CWP-20841-2025	Manjit Kaur	Punjab State Power Corporation Limited and

			another
66.	CWP-25748-2025	Gurpreet Singh	Punjab State Power Corporation Limited and another
67.	CWP-25754-2025	Kushliya Devi	Punjab State Power Corporation Limited and another
68.	CWP-19700-2025	Gurdev Kaur and others	Punjab State Power Corporation Limited and others
69.	CWP-27582-2025	Anil Kumar	Punjab State Power Corporation Limited and another

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Neeraj Goel, Advocate for the petitioners
in CWP Nos.14579, 14588 and 14812 of 2024.

Mr. R.K. Arora, Advocate with
Mr. Jugam Arora, Advocate,
and Mr. J.S. Bhogal, Advocate for the petitioner(s) in
CWP Nos.12279, 20757 and 20928 of 2024.

Ms. Rajni Bala Rohilla, Advocate
for Mr. A.S. Barnala, Advocate
for the petitioner in CWP-3263-2025.

Mr. Virinder Shukla, Advocate and
Mr. Ashish Gupta, Advocate for the petitioner(s)
in CWP Nos.7614, 7942, 7999, 18266,
20000 of 2024 and 20841 of 2025.

Mr. Mohit Jaggi, Advocate for the petitioner(s)
in CWPs Nos.9601, 9972, 10533, 10534, 10540, 10543,
10544, 10545, 10546, 10547, 13443, 13451, 13585, 13590,
13765, 13774, 13776, 13861, 13896, 13949, 14007, 14972,
15062, 16688, 18723, 18730, 19746 and 32099 of 2024
and in CWP Nos.27582, 25748, 25754, 2443, 2654, 2655,
2656, 2658, 2661, 2827, 10547, 10549 of 2025.

Mr. Lovekesh Mehta, Advocate
for the petitioner in CWP-28819-2024.

Mr. Brijesh Nandan, Advocate for the petitioner(s)
in CWPs No.8777, 8663, 9219 and 9500 of 2024.

Mr. Imran Farooqi, Advocate
for the petitioner(s) in CWP Nos.30883, 28381,
35302, 32375 of 2024.

Mr. Aman Goyal, Advocate
for the petitioner in CWP-26396-2024.

Mr. Varinder Singh, Advocate
for the petitioner in CWP-2303-2025.

Mr. Vikas Sonak, AAG, Punjab in CWP-2303-2025.

Mr. Vikas Chatrath, Advocate with
for respondents/PSTCL in
CWP Nos.12018, 13861, 13949, 10546 & 10547 of 2024
and in CWP No.7942 of 2025.

Mr. Manan Bhardwaj, Advocate
with Mr. Gurpreet Singh, Advocate
and Ms. Kushliya Devi, Advocate
for respondents in CWP Nos.25748 & 25754 of 2025.

Mr. Karmanbir Singh Kharbanda, Advocate
for the respondent/PSPCL
in CWPs No.7614, 10533, 10546, 10540,
12018, 13776, 13896, 13765, 14007, 13949,
13861, 14588, 20000, 14579, 13774 of 2024.

Mr. Deepak Aggarwal, Advocate
for respondent No.4 in CWP-32099-2024.

Mr. Opinder Pal Singh, Advocate
for Mr. R.P.S. Bara, Advocate
for respondent/PSPCL in CWP Nos.8777 & 26396 of 2024.

Mr. Shashank Bhandari, Advocate
for respondent/PSPCL in CWP-30883-2024
and CWP-7999-2025.

Mr. B.S. Khehar, Advocate
for the respondents in CWP-20841-2025.

Mr. Mrinal Deewan, Advocate
and Mr. Shashank Bhandari, Advocate
for respondent(s) in CWP-30883-2024
and in CWP-7999-2025.

Mr. Puneet Bali, Advocate for respondent/PSPCL

in CWP Nos.32099, 25382 & 9972 of 2024
and CWP-848-2025.

Ms. Richa Tayal, Advocate
for Ms. Harpriya Khaneka, Advocate
for respondent/PSPCL in CWP-9601 & 12279 of 2024.

Mr. J.S. Gill, Advocate
for respondents No.1 to 4 in CWP-18266-2024.

Mr. Rahul Sharma-I, Advocate
and Mr. Rahul Aggarwal, Advocate
for respondent in CWP-9546-2025.

Ms. Shreya B. Sarin, Advocate
for the respondent/PSPCL
in CWP-28819-2024 and CWP-27582-2025.

Ms. Gurneet Sagoo, Advocate
for the respondent/PSPCL in CWP-19746-2024.

Mr. Hridyavans Randhawa, Advocate
for Mr. Charanpreet Singh, Advocate
for the respondent/PSPCL
in CWP Nos.28381 and 32375 of 2024.

Ms. Eknoor Kaur Sara, Advocate
for the respondent/PSPCL
in CWP No.8663 of 2024 and CWP No.2827 of 2025.

Mr. Ramdeep Partap Singh, Advocate
and Mr. Sahil Koul, Advocate
for the respondents in CWP-9500-2024.

Mr. Raina S. Thakur, Advocate for the respondent/PSPCL.

Mr. Luvinder Sofat, Advocate for respondent/PSPCL
in CWP-9219-2024.

Mr. G.S. Virk, Advocate for respondent/PSPCL.

HARPREET SINGH BRAR J. (Oral)

1. This common order shall dispose of the aforementioned civil writ petitions as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from CWP-7614-2024.

2. The civil writ petition (CWP-7614-2024) has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned Order dated 27.03.2024 (Annexure P-9) and for a direction to the respondents to regularize the services of the petitioner in view of the Punjab Government Policy dated 04.03.1999 (Annexure P-1).

3. The factual matrix, as culled out from the pleadings, is that the petitioner was appointed as a part-time Sweeper with the respondent/Corporation (hereinafter 'PSPCL') on 03.06.1998 and has been working continuously since then. The State of Punjab issued a Policy dated 04.03.1999 (Annexure P-1) for the regularization of services of part-time employees who had completed 10 years of service. This policy was subsequently adopted and ratified by the respondent/Corporation vide Office Orders dated 07.05.2014 (Annexure P-2) and 10.06.2014 (Annexure P-3) respectively. Clause 2 of the Policy dated 04.03.1999 is reproduced below:

> *"2. After thorough consideration Government have decided to formulate a policy for the regularization of the services of Part time workers as follows:-*
> *(A)* ***The part time workers who have worked for 10 years or more will be considered for regular appointment in the concerned department and in the concerned District against 25% Class IV vacancies which will become available hereafter subject to the following****:-*
> *(i)* ***that during the tenure of their employment on part time basis for 10 years or more, their presence on duty should have been minimum 80%****.*
> *(ii) That they fulfill the qualifications for the new job as prescribed under the rules at the time of their consideration for regularization;*

(iii) That they will be entitled to relaxation in upper age limit upto the extent of years they have served as part time workers;
(iv) That they had been appointed initially on part time basis through Employment Exchange or through open advertisement in the Press and
(v) That they are otherwise found suitable for the job." (Emphasis added)

4. Having completed more than 10 years of service, the petitioner sought regularization. Upon the respondents' failure to act, the petitioner, along with other similarly situated employees, filed **CWP No. 2828 of 2016**. A Coordinate Bench of this Court allowed the writ petition vide judgment dated 27.07.2018 (Annexure P-4), directing the respondents to consider the cases of the petitioners for regularization as per the 1999 Policy and grant consequential benefits. The respondent/Corporation challenged this decision by filing **LPA No. 95 of 2019**. A Division Bench of this Court dismissed the appeal vide judgment dated 23.12.2022 (Annexure P-5). The Special Leave Petition (SLP) filed by the Corporation against the aforesaid judgment was also dismissed by the Hon'ble Supreme Court on 11.09.2023.

5. In purported compliance with the Division Bench's order, the respondent/Corporation passed agendas for regularization of total 352 PTS workers out of which 298 PTS workers are from PSPCL and the remaining 54 workers are from Punjab State Transmission Corporation Limited ('PSTCL'). However, the petitioner's claim for regularization was rejected vide impugned order dated 27.03.2024 (Annexure P-9) solely on the ground that he did not complete 10 years

of service on or before the cut-off date of 10.04.2006. Aggrieved by this rejection and the respondent/Corporation's move to change the service conditions of such employees from departmental to outsourced, the petitioner has approached this Court.

CONTENTIONS

6. Learned counsel for the petitioner(s), *inter alia,* submitted that the impugned order misinterprets the mandate of the Division Bench in LPA No. 95 of 2019 (Annexure P-5). The Policy dated 04.03.1999 (Annexure P-1) is a standing policy that is still in existence and unequivocally states that employees completing 10 years of service on the date of the policy or later on are to be regularized. The petitioner, having rendered over 26 years of continuous service, is squarely covered by this policy. Further, it was argued that the action of the respondents is blatantly discriminatory and violative of Articles 14 and 16 of the Constitution. While the respondents regularized 352 employees, they arbitrarily denied the same benefit to the petitioner, who is similarly situated in all respects except for the artificially imposed cut-off date of 10.04.2006, which finds no mention in the original 1999 Policy. The affidavit filed by the Accounts officer of the respondent/Corporation reveals that there are 3931 vacant Group-D posts against a sanctioned strength of 8076. Thus, the plea of lack of vacant posts is untenable as this Court has the power to direct the Respondents to create sanctioned posts for part-time workers out of the vacant posts for Group-D employees beyond the 25% ceiling given in

the 1999 policy. Moreover, the attempt to change the petitioner's service condition from a departmental employee to an outsourced worker, after he has accrued a right to be considered for regularization under a settled policy, is arbitrary and unjust. The learned counsel placed reliance on the judgments of this Court in LPA No. 771 of 2016 titled as ***State of Punjab*** **v.** ***Surjit Kaur*** and in CWP No. 1933 of 2014 titled as ***Kanta Rani v. State of Punjab & Ors***. Reliance is also placed on the judgment of the Hon'ble Supreme Court in ***Jaggo v. Union of India, 2024 SCC OnLine SC 3826***.

7. *Per contra,* learned counsel for the respondents contended that the Corporation has fully complied with the directions issued by the Division Bench in LPA No. 95 of 2019 (Annexure P-5). The direction was to consider the regularization of part-time employees who had completed 10 years of service as on 10.04.2006. The policy dated 04.03.1999 (Annexure P-1) was confined solely to 25% of the vacant Class IV posts. Pursuant thereto, the respondent/Corporation regularized the eligible part-time employees and, in accordance with the prescribed criterion, rightly rejected the claims of others, including the petitioner(s), thereby exhausting the mandate of the 1999 policy. It was further contended that acceptance of the petitioners' claim for regularization would exceed the 25% ceiling and result in a violation of the said policy.

8. Learned counsel for the Respondents argued that the Hon'ble Supreme Court in ***State of Karnataka v. Uma Devi, (2006) 4***

SCC 1, had carved out a one-time exception permitting the regularization of employees who had been engaged irregularly but were working for a long period against duly sanctioned posts, subject to their fulfilling the eligibility criteria, while making it clear that this was not to be treated as a precedent for future regularization. The petitioner is seeking regularization of his services under a misconceived and *mala fide* interpretation of the judgment rendered in **LPA No. 95 of 2019.** The relief granted in the said LPA does not extend to the petitioner as he had not completed 10 years of service as on 10.04.2006. Rather, the Petitioner completed his 10 years of service on 03.03.2008 and therefore, he cannot claim the benefit of LPA No. 95 of 2019. Further, the petitioner has admitted that he has only rendered service for a maximum of four hours per day as a part-time employee and therefore, he is not entitled to regularization in view of the settled law laid down by the Hon'ble Supreme Court in ***Union of India v. Ilmo Devi 2021(4) SCT 312, State of Rajasthan v. Daya Lal 2011(1) SCT 795 and Union of India v. A.S. Pillai 2010(4) SCT 817.***

OBSERVATION & ANALYSIS

9. Having heard learned counsel for the parties and after perusing the record with their able assistance, the following questions arise for adjudication:

(i) Whether part-time workers working for a few hours in a day are entitled to seek regularization of their service?

(ii) Whether the petitioner(s) can be granted regularization in light of the judgment of the Division Bench in ***LPA No. 95 of 2019****?*

(iii) Whether the Court can issue a writ of Mandamus compelling the respondent/Corporation to create or sanction posts?

REGULARIZATION OF PART-TIME WORKERS

10. The question of whether part-time workers can be regularized is no longer *res integra*. In the ***Ilmo Devi's*** **case** ***(supra)*** a Two-Judge Bench of the Hon'ble Supreme Court speaking through Justice M.R. Shah has held as follows with regards to the regularization of part-time Sweepers who were working for less than five hours a day:

> *"8.6* ***In the case of Daya Lal & Ors. (supra) in paragraph 12, it is observed and held as under****:-*
>
> > *12. We may at the outset refer to the following well-settled principles relating to regularisation and parity in pay, relevant in the context of these appeals:*
> >
> > *(i) The High Courts, in exercising power under Article 226 of the Constitution will not issue directions for regularisation, absorption or permanent continuance, unless the employees claiming regularisation had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant posts. The equality clause contained in Articles 14 and 16 should be scrupulously followed and Courts should not issue a direction for regularisation of services of an employee which would be violative of the constitutional scheme. While something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularised, back door entries, appointments contrary to the*

constitutional scheme and/or appointment of ineligible candidates cannot be regularised.

(ii) Mere continuation of service by a temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be "litigious employment". Even temporary, ad hoc or daily- wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularisation, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularisation in the absence of a legal right.

(iii) Even where a scheme is formulated for regularisation with a cut-off date (that is a scheme providing that persons who had put in a specified number of years of service and continuing in employment as on the cut-off date), it is not possible to others who were appointed subsequent to the cut-off date, to claim or contend that the scheme should be applied to them by extending the cut-off date or seek a direction for framing of fresh schemes providing for successive cut-off dates.

(iv) Part-time employees are not entitled to seek regularisation as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularisation or permanent continuance of part-time temporary employees.

(v) Part-time temporary employees in government-run institutions cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. The right to claim a particular salary against the State must arise under a contract or under a statute.

[See State of Karnataka v. Umadevi (3) [(2006) 4 SCC 1], M. Raja v. CEERI Educational Society [(2006) 12 SCC 636], S.C. Chandra v. State of

> *Jharkhand [(2007) 8 SCC 279], Kurukshetra Central Coop. Bank Ltd. v. Mehar Chand [(2007) 15 SCC 680] and Official Liquidator v. Dayanand [(2008) 10 SCC 1].*
>
> *8.7* ***Thus, as per the law laid down by this Court in the aforesaid decisions part-time employees are not entitled to seek regularization as they are not working against any sanctioned post and there cannot be any permanent continuance of part-time temporary employees as held. Part-time temporary employees in a Government run institution cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work****. (Emphasis added)*

11. In ***Union of India and Ors. v. A.S. Pillai and Ors., 2010(4) S.C.T. 817***, a Two-Judge Bench of the Hon'ble Supreme Court denied the relief of regularization to part–time workers on the ground that that such employees, not being bound by service rules or departmental regulations applicable to regularly appointed staff, cannot claim parity in terms of equal pay or regularization. The Court emphasized that part-time workers remain at liberty to take up engagements elsewhere, as there is no restraint upon them when they are not serving the authority/employer. Reliance can also be placed on the judgments of the Hon'ble Supreme Court in ***Secretary to Government, School Education Department, Chennai v. Thiru R. Govindaswamy 2014(2) SCT 221*** and ***State of Rajasthan v. Daya Lal, 2011(2) SCC 429***. Further, the Division Benches of the Delhi and Gujarat High Court in ***Post Master Main Post Office v. Bir Singh 2023 NCDHC 6087*** and ***State of Gujarat v. Mahesh Ramjibhai Purabia (R/LPA No. 1142 of 2018)*** have relied on the aforementioned judgments and denied the

relief on regularization to part-time workers who are not working against any sanctioned posts.

12. Admittedly, the petitioner has been serving as a part-time Sweeper with the respondent/Corporation, not against any sanctioned post, and ***for no more than four hours a day*** (Annexure P-13). Being engaged only part-time, he remains free to take up employment elsewhere and faces no restraint from working for another establishment during the remaining hours. The contention that such part-time engagement makes it nearly impossible for him to secure work for the rest of the day is founded merely on surmises and conjectures and, therefore, is untenable. This very plea had earlier been rejected by the Hon'ble Supreme Court in the ***Ilmo Devi case (supra)*** with regards to ***part-time workers working for less than five hours in a day***.

INTERPRETATION OF THE JUDGMENT OF THE DIVISION BENCH IN LPA NO. 95 OF 2019

13. It is trite law that a judgment must be interpreted in the context of the facts of the specific case presented before the Court, without reading into it more than what is expressly stated. It is neither appropriate nor permissible to isolate a word or a sentence from a judgment, detached from the context of the issue being addressed, and treat it to be the complete law in itself. Instead, a judgment must be read as a whole, and any observations made therein ought to be understood in relation to the questions that were actually under consideration. A two-Judge bench of the Hon'ble Supreme Court in ***Oriental Insurance***

Company Limited v. Rajkumar and Ors (2007) 12 SCC 768, speaking through Justice Arijit Pasayat, J, made the following observations in this regard:

> *"11.* ***Reliance on the decision without looking into the factual background of the case before it is clearly impermissible. A decision is a precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving a judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi.*** *According to the well-settled theory of precedents, every decision contains three basic postulates - (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. (See State of Orissa v. Sudhansu Sekhar Misra and Ors., (AIR 1968 Supreme Court 647) and Union of India and Ors. v. Dhanwanti Devi and Ors., (1996(6) SCC 44).* ***A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in Act of Parliament. In Quinn v. Leathem, (1901) AC 495 (H.L.), Earl of Halsbury LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions***

are found and a case is only an authority for what it actually decides.

12. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. ***Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes.*** *To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. v. Horton, (1951 AC 737 at p.761), Lord Mac Dermot observed :*

> *"The matter cannot, of course, be settled merely by treating the ipsissima vertra of Willes, J as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge."*

13. In Home Office v. Dorset Yacht Co., (1970(2) All England Reporter 294) Lord Reid said, "Lord Atkin's speech.....is not to be treated as if it was a statute definition. It will require qualification in new circumstances." Megarry, J in (1971)1 WLR 1062 observed : "One must not, of course, construe even a reserved judgment of Russell L.J. as if it were an Act of Parliament." And, in Herrington v. British Railways Board, (1972(2) WLR 537) Lord Morris said:

> *"****There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case."***

14. ***Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper****.*

15. The following words of Lord Denning in the matter of applying precedents have become locus classicus :

> *"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."*
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> *** *** ***
>
> *"Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path to justice clear of obstructions which could impede it."" (Emphasis supplied)*

14. In the present case, the respondent/Corporation had challenged the decision in **CWP No. 2828 of 2016** before a Division Bench of this Court. The Court while dismissing the appeal vide judgment dated 23.12.2022 in LPA No. 95 of 2019 (Annexure P-5), held as follows:

> *"....The act and conduct of the Corporation and also in the manner in which they kept the part time employees hanging subject to the decision of the contempt also does not behove of a model employer. The resolution as such dated 23.07.2015 would go on to show that the moment the contempt petition was disposed of in view of the non-speaking order passed, the appellants chose to rescind the earlier decision and deny all the benefits of consideration for regularization by abolishing the vacant posts of Malis*

and Sweepers though as per the judgment in Uma Devi's case (supra), they were to take necessary steps as such to regularize them. ***In such circumstances, it is apparent that employees who had completed 10 years on 10.04.2006 were to be considered for the purpose of regularization, which the Corporation has not done while relying upon Clause 2(a)(iv) which already stood quashed. The decision as such to adopt on 07.05.2014, as argued by the counsel, cannot be held to be prospective as the appellant was under an obligation to comply with the decision of the Apex Court. Once the policy of the State dated 04.03.1999 was adopted, the employees who had completed 10 years on 10.04.2006 were given a fresh lease of life in view of the directions of the Apex Court as there was to be a one time measure and the same could not be pushed 8 years later to the year 2014. Resultantly, the right of the writ petitioners arose to seek a mandamus upon the strength of the policy adopted by the Corporation and the law laid down by the Constitutional Bench.***

** ** **

....Once the policy itself was there that the part time employees were also to be regularized is already in vogue on 04.03.1999 prior to the judgment in Uma Devi's case (supra) also, it was the bounden duty of the Corporation to enforce it in view of the judgment of the Constitution Bench. By delaying the said decision for a period of 8 years in spite of the fact that directions were being issued time and again against them only would go on to show defiant nature of the Corporation against the settled principles, which cannot be appreciated in any manner. Thus, once Powercom itself accepted its liability, it is for it to comply with the directions issued by the learned Single Judge. Accordingly, the present appeals are dismissed with the following directions:-

(i) ***That the Powercom shall firstly consider all employees including those of the erstwhile PSEB for regularization of employees who were working with it for a period of 10 years as on 10.04.2006 in view of the judgment in Uma Devi's case (supra) without any bar whether they were employed through employment exchange or through open***

> ***advertisement in the press as they can be considered as irregular appointments on account of the length of the service.***
> ***(ii) Secondly, on account of the adoption of the policy on 07.05.2014, the employees are entitled for a writ of mandamus for similar consideration as per the policy dated 04.03.1999 and, therefore, the employees who had completed 10 years and had the requisite 80% attendance on 10.04.2006, would be necessarily considered and the stand that it would only be prospective from the date of adoption on 07.05.2014 is rejected.***
> *(iii) Resultantly, the notice dated 02.02.2018 whereby the decision was taken to outsource the part time employees without adjusting them and regularizing their services in pursuance of the directions of the Apex Court in Uma Devi's case (supra) is also held to be bad and illegal." (Emphasis added)*

15. This Court is of the opinion that the respondent/Corporation has sufficiently complied with the decision of the Division Bench of this Court in **LPA No. 95 of 2019** by regularizing 352 part-time employees. The Division Bench's judgment is based on the decision in ***Uma Devi's case (supra)*** and the Court had clearly stated that those employees who had completed 10 years and had the requisite 80% attendance on 10.04.2006 were to be considered for regularization by the respondent/Corporation under the policy dated 04.03.1999 (Annexure P-1). This Court finds merit in the argument of the learned counsel for the Respondents that the object of the policy has been duly achieved and the respondent/Corporation cannot be faulted for rejecting the claim of petitioners who had not completed 10 years of service on 10.04.2006. If the petitioners are directed to be regularized, it

would exceed the 25% ceiling created in the 1999 Policy and result in a violation of the said policy.

ISSUANCE OF A WRIT OF MANDAMUS TO COMPEL THE RESPONDENT/CORPORATION TO CREATE OR SANCTION POSTS

16. The Hon'ble Supreme Court has consistently held that the High Court, while exercising jurisdiction under Article 226 of the Constitution, cannot issue a writ of Mandamus compelling the Department to create or sanction posts. Likewise, it is beyond the Court's authority under Article 226 to require the Government or the Department to frame a specific policy of regularization. The formulation of schemes, as well as the creation or sanctioning of posts, lies exclusively within the prerogative of the Government, and does not fall within the functions of the Court. Reliance can be placed on ***Divisional Manager Aravali Gold Club v. Chander Hass 2008 (1) SCT 279, Union of India v. All India Trade Union Congress (2019) 5 SCC 773,*** and ***Ilmo Devi* case *(supra)***. Para 8.4 and 8.5 of the ***Ilmo Devi case (supra)*** are reproduced here under:

> *"8.4* ***The observations made in paragraph 9 are on surmises and conjunctures. Even the observations made that they have worked continuously and for the whole day are also without any basis and for which there is no supporting evidence. In any case, the fact remains that the respondents served as part-time employees and were contingent paid staff. As observed above, there are no sanctioned posts in the Post Office in which the respondents were working, therefore, the directions issued by the High Court in the impugned judgment and order are not permissible in the judicial review under***

> ***Article 226 of the Constitution. The High Court cannot, in exercise of the power under Article 226, issue a Mandamus to direct the Department to sanction and create the posts. The High Court, in exercise of the powers under Article 226 of the Constitution, also cannot direct the Government and/or the Department to formulate a particular regularization policy. Framing of any scheme is no function of the Court and is the sole prerogative of the Government. Even the creation and/or sanction of the posts is also the sole prerogative of the Government and the High Court, in exercise of the power under Article 226 of the Constitution, cannot issue Mandamus and/or direct to create and sanction the posts.***
> *8.5 Even the regularization policy to regularize the services of the employees working on temporary status and/or casual labourers is a policy decision and in judicial review the Court cannot issue Mandamus and/or issue mandatory directions to do so. In the case of R.S. Bhonde and Ors. (supra), it is observed and held by this Court that the status of permanency cannot be granted when there is no post. It is further observed that mere continuance every year of seasonal work during the period when work was available does not constitute a permanent status unless there exists a post and regularization is done." (Emphasis added)*

17. A Three-Judge Bench of the Hon'ble Supreme Court in ***Official Liquidator v. Dayanand and Others, (2008) 10 SCC 1*** speaking through Justice G.S. Singhvi has held as follows:

> *"59.* ***The creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source and mode of recruitment and qualifications and criteria of selection, etc. are matters which fall within the exclusive domain of the employer. Although the decision of the employer to create or abolish posts or cadres or to prescribe the source or mode of recruitment and laying down the qualification, etc. is not immune from judicial review, the Court will always be extremely cautious and circumspect in tinkering with the exercise of discretion by the employer. The Court cannot sit in appeal over the judgment of the employer and ordain that a particular***

post or number of posts be created or filled by a particular mode of recruitment. The power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provisions or is patently arbitrary or vitiated by mala fides.

60. In State of Haryana v. Navneet Verma [(2008) 2 SCC 65 : (2008) 1 SCC (L&S) 373] , a Division Bench of two Judges referred to M. Ramanatha Pillai v. State of Kerala [(1973) 2 SCC 650 : 1973 SCC (L&S) 560] , Kedar Nath Bahl v. State of Punjab [(1974) 3 SCC 21] , State of Haryana v. Des Raj Sangar [(1976) 2 SCC 844 : 1976 SCC (L&S) 336] , N.C. Singhal (Dr.) v. Union of India [(1980) 3 SCC 29 : 1980 SCC (L&S) 269] and Avas Vikas Sanghathan v. Engineers Assn. [(2006) 4 SCC 132 : 2006 SCC (L&S) 613] and culled out the following principles : (Navneet Verma case [(2008) 2 SCC 65 : (2008) 1 SCC (L&S) 373] , SCC p. 70, para 14)

> *"**(a) the power to create or abolish a post rests with the Government;***
>
> ***(b) whether a particular post is necessary is a matter depending upon the exigencies of the situation and administrative necessity;***
>
> ***(c) creation and abolition of posts is a matter of government policy and every sovereign Government has this power in the interest and necessity of internal administration;***
>
> ***(d) creation, continuance and abolition of posts are all decided by the Government in the interest of administration and general public;***
>
> ***(e) the court would be the least competent in the face of scanty material to decide whether the Government acted honestly in creating a post or refusing to create a post or its decision suffers from mala fides, legal or factual;***
>
> ***(f) as long as the decision to abolish the post is taken in good faith in the absence of material,***

> ***interference by the court is not warranted.****"""*
> *(Emphasis supplied)*

18. In **BALCO Employees' Union (Regd.) v. Union of India, (2002) 2 SCC 333**, a Three-Judge Bench of the Hon'ble Supreme Court speaking through Justice B.N. Kirpal has held as follows:

> *"46.* ***It is evident from the above that it is neither within the domain of the courts nor the scope of the judicial review to embark upon an enquiry as to whether a particular public policy is wise or whether better public policy can be evolved. Nor are our courts inclined to strike down a policy at the behest of a petitioner merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical.***
>
> *92. In a democracy, it is the prerogative of each elected Government to follow its own policy. Often a change in Government may result in the shift in focus or change in economic policies. Any such change may result in adversely affecting some vested interests.* ***Unless any illegality is committed in the execution of the policy or the same is contrary to law or mala fide, a decision bringing about change cannot per se be interfered with by the court.***
>
> *93.* ***Wisdom and advisability of economic policies are ordinarily not amenable to judicial review unless it can be demonstrated that the policy is contrary to any statutory provision or the Constitution. In other words, it is not for the courts to consider relative merits of different economic policies and consider whether a wiser or better one can be evolved.*** *For testing the correctness of a policy, the appropriate forum is Parliament and not the courts. Here the policy was tested and the motion defeated in the Lok Sabha on 1-3-2001." (Emphasis supplied)*

19. Thus, this Court is of the opinion that the power to create and sanction posts vests exclusively in the executive or legislative authorities, and the Court cannot assume such a function unto itself by

directing the creation of posts in any organization. Time and again, the Hon'ble Supreme Court has emphasized that the establishment of a post is inherently an executive or legislative act, one which is also dependent upon economic considerations. Consequently, the judiciary cannot usurp this authority and confer upon itself the power to create posts.

20. In the present case, the respondent/Corporation is free to create a fresh policy for regularization of those employees who are similarly situated as the petitioners. This Court, while exercising jurisdiction under Article 226 of the Constitution, cannot issue a writ of Mandamus compelling the Respondents to create or sanction posts for the regularization of part time workers, or to frame a specific policy.

CONCLUSION

21. In view of the foregoing discussions, the questions framed above are answered in the following terms:

(i) Part-time workers not working against any sanctioned posts for a few hours in a day, are not entitled to seek regularization of their service in view of the law settled by the Hon'ble Supreme Court.

(ii) The petitioner(s) cannot be granted regularization in light of the judgment of the Division Bench in **LPA No. 95 of 2019** since the respondent/Corporation has sufficiently complied with the decision and considered the claim of those employees who had completed 10 years of service and had the requisite 80% attendance on 10.04.2006.

(iii) This Court cannot issue a writ of Mandamus compelling the respondent/Corporation to create or sanction posts.

22. Therefore, in view of the foregoing discussions, all the captioned petitions are dismissed.

23. Pending miscellaneous application(s), if any, also stand disposed of.

24. A photocopy of this order be placed on the file of other connected cases.

(HARPREET SINGH BRAR)
JUDGE

22.09.2025
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No