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

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Date of Decision: 19.08.2025.

(1)

CWP-14463-2001 (O&M).

JAGGA SINGH AND OTHERS

... Petitioner(s)

Versus

FOOD CORPORATION OF INDIA AND OTHERS

... Respondent(s)

(2)

CWP-15962-2001 (O&M).

KOURA SINGH AND OTHERS

... Petitioner(s)

Versus

FOOD CORPORATION OF INDIA AND OTHERS

... Respondent(s)

(3)

CWP-13251-2000 (O&M).

KEWAL SINGH AND OTHERS

... Petitioner(s)

Versus

FOOD CORPORATION OF INDIA AND OTHERS

... Respondent(s)

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

Present: Mr. Bikramjit Singh Patwalia, Advocate, with
Mr. Gaurav Jagota, Advocate,
for the petitioner(s) in CWP-14463-2001, CWP-15962-2001
and CWP-13251-2000.

Mr. K.K. Gupta, Advocate,
for the respondents-FCI in CWP-13251-2000.

Mr. H.S. Dhandi, Advocate,
for the respondents-FCI in CWP-14463-2001 and
CWP-15962-2001.

VINOD S. BHARDWAJ, J. (ORAL)

Involving identical issues, these three writ petitions are being decided by a common order.

2 For the sake of brevity, the facts are, however, being extracted from CWP-14463-2001 titled as 'JAGGA SINGH AND OTHERS Vs. FOOD CORPORATION OF INDIA AND OTHERS.'

3 Prayer in the above writ petition is for seeking directions to the respondent-Food Corporation of India (hereinafter referred to as 'FCI') to induct/absorb the petitioners as Handling Labourers in the Food Storage Depot, Jagraon under the 'Direct Payment System' as per the recommendations of the Ishwari Prasad Committee.

4 Learned counsel appearing on behalf of the petitioners contends that the petitioners were working as Handling/Ancillary Labourers in the Food Storage Depot, Jagraon, District Ludhiana for 7-10 years as on date when the instant writ petitions had been filed. The seniority list of the

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labourers working at the Jagraon Depot along with their date of birth (duly authenticated by the officials of the respondent-FCI) had been circulated. A chart giving detailed descriptions of the petitioners, their respective seniority and their identification numbers has also been attached with the instant writ petitions which is not disputed by the respondents, hence, it is not being adverted to any further. It is submitted that the respondent-FCI was deploying handling/ancillary labour, through various contractors and the same caused huge litigation not only before the different High Courts of India but also before the Hon'ble Supreme Court. Workmen claimed direct absorption by the respondent-FCI and also a Direct Payment System. In one of the said writ petitions, Ishwari Prasad Committee was eventually constituted to examine different issues and to make recommendations.

5 A report was submitted by the said Committee making recommendations and upon consideration of the same, the respondents took a decision to adopt and implement the same vide its decision dated 18.02.1997.

6 With respect to the areas falling within Punjab, the respondent-FCI, took a decision to introduce the direct payment system at 45 centers subject to adoption of safeguards. Out of the 45 centres, 14 centres were being managed under the contract system. Handling/Ancillary/temporary labourers handling the foodgrains in the godowns/depots of the said 14 centres were hence brought under the direct payment system of labour w.e.f. 01.04.1997.

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Assessment of labour requirement was also carried out as per the formula given thereunder. As per the said decision, the respondent-FCI approved 170 handling workers and 84 ancilliary workers for the Jagraon Depot. He submits that the District Manager, Ludhiana sent a communication to the respondent-Food Corporation of India to the effect that the calculation made by them of the labour requirements brought under the direct payment system was incorrect and that for Jagraon Depot as many as 304 workers were required to be brought in under the Direct Payment System. The said request was reiterated through different reminders but to no avail. However, the said issue is not being gone into at this juncture since the said decision whereby the competent authority finally approved 178 number of workers to be brought under the direct payment system under the Jagraon Depot is not a subject matter of challenge in the instant writ petitions and counsel contend that their rights would still be protected. Counsel contends that as against 178 persons so approved to be brought under direct payment system, the respondents initially brought only 170 Handling labourers and 84 ancilliary workers.

7 Counsel contends that a large number of workmen have since retired from the respondent-FCI, however, the respondents still did not extend the benefit of direct payment system to the other remaining workers by bringing them pro-rata within the ambit of the decision already taken by the respondent-FCI. He further contends that on accrual of a vacancy, the

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person next had to be brought in under the said policy decision for payment through a direct payment system, the decision being ongoing and subsisting.

8 Counsel for the respondent-FCI however contend that in the year 1997, the workers fulfilling the prescribed criteria were inducted in the FCI i.e. 170 handling and 84 ancillary workers that were required at the depots. The induction was made by the Committee in consultation with the workers Union. Subsequently, in view of the decision of the Nagpur Bench of the Bombay High Court as confirmed by the Hon'ble Supreme Court of India, the direct payment system was confined only at the depots and not at the rail heads where the entire handling and transport work was to be done by the contract tendering process. The policy of contractual engagement was upheld. He contends that as of now only 145 handling labour and 26 ancillary under the direct payment system labour are left. No further induction, after initial induction in the year 1997, has been made, except on compassionate grounds as per the instructions issued for the Direct Payment System. Counsel further contend that in view of the judgment of the Nagpur Bench of the Bombay High Court as confirmed by the Hon'ble Supreme Court of India, the cadre has been declared as a dying cadre since 20.11.2015 and as the benefit of direct payment has not been extended to any other person, the instant writ petitions deserve to be dismissed. It is further contended that there was no requirement of regular manpower, hence, the petitioners cannot claim the right to be covered under the direct payment system and they not being

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the employees of the respondent-FCI, continue to be engaged by the contractor.

9 No other argument has been advanced by the counsel appearing for the respondent-FCI.

10 A specific query was put to the counsel appearing on behalf of the respondent-FCI as to whether the decision taken by the Board of the FCI to bring labourer under the Direct Payment System and as communicated vide letter dated 18.02.1997 by the Executive Director of the respondent-FCI was a one time measure, to which the response submitted is, 'it is not worded as a one time measure'.

11 Question was also posed to the respondents as to whether the benefit of direct payment system was extended to a specified numerical strength or whether it is a benefit to be extended in personam to specific people? Counsel for the respondent-FCI fairly submits that the benefit of direct payment system was to be extended to the specified number of handling/ancillary labour, as approved by the FCI and it was not a benefit in personam.

12 Counsel for the respondents have also been called upon to refer to the specific pleadings either in the written statement filed or in the additional affidavit filed that there was no work requirement at any of the said depots, however, they have not been able to refer to any specific pleadings

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by the respondents either in the reply or in the affidavit wherein any subsequent assessment or evaluation of the work requirement has been done and it has been concluded that there is no work requirement.

13 A specific question has also been put to the counsel for the respondents as to whether the decision dated 18.02.1997 was for a prescribed limited period or was modified at any point of time prior to the decision of the Nagpur Bench of the Bombay High Court as confirmed by the Hon'ble Supreme Court in the year 2020 whereafter a policy decision was taken by the respondents to engage the handling and ancillary labour only through tendering/contracting process. They are not in a position to refer to any specific averment in the pleadings or in the affidavit that the policy decision for bringing labour under the Direct Payment System in question was operationalized only for a specified period or was at any point in time modified, repealed or became non-operative or unenforceable till such time that the said policy decision was superseded by the subsequent policy decision.

14 The aforesaid questions are of significance since the decision dated 18.02.1997 approving the recommendation made by the Ishwari Prashad Committee, on the basis whereof the handling/ancillary labour were working at the depot of the respondents and having been engaged through

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contractors were to be given remittance through a direct payment system, falls for interpretation in these writ petitions.

15 It is not in dispute that a memorandum of understanding had earlier been arrived at between the Union and Ministry about introduction of Direct Payment System through 03 Member Committee of Workers in the 73 Depots of Punjab region. Since, Dhuri was then not a part of the memorandum of understanding, the Workers' Union filed a writ petition before the High Court for Direct Payment System. The same was dismissed leading to filing of SLP (C) No.15483 of 1994. Vide order dated 27.03.1995, the Union of India was directed to examine the matter and take a consolidated decision for all Units in Punjab.

16 In compliance thereto, Sh. Ishwari Prasad, (Retd.) Secretary to the Government of India was appointed to examine whether the earlier system was needed to be extended to other Depots in the Punjab or not.

17 The Committee recommended the extension of the scheme for all 140 centres of Punjab. On receipt of the same, the Government of India i.e. Ministry of Food, in consultation with Ministry of Labour decided to introduce the Direct Payment System at the 45 centres including the centres now in litigation. All these centres were under Direct Payment System w.e.f. 01.04.1997. The decision also conveyed the labour requirement assessment factors at each centre.

18 Clause 13 of the said decision makes an interesting reading. The same is extracted as below:-

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“13. The seniority list of the workers selected after identification and physical fitness prepared for each depot/centre separately of Handling labour (Loaders) and Ancillary) (casual) labourers on the basis of actual number of days work done by each labour during last 3 years in the concerned depot/centres with contractors. In case the seniority of two or more workers will be same, the criteria of date of birth will be considered for arranging their inter-se seniority. The senior most workers shall be inducted under Direct Payment well ancillary labour assessed as per above formula/norms given in Para-6. Any labour found in excess over the number determined on the basis of above assessment formula/norms will not have any claim with FCI and FCI will not be responsible them in future also. In case the required of labour as per above assessment formula, works out more than actual number of labourers identified by the committee then the induction of workers as DPS be restricted to the number of labourers available and identified by the Committee. It is reiterated here that no substitution or induction of any fresh labourer who has not worked in the depot and has not been identified by the Committee, shall be allowed.”

19 The above provides that the Scheme shall be enforceable w.e.f. 01.04.1997 and the labour in excess of assessed formula will not have claim against Food Corporation of India. In the later part of the clause, it also provides that if actual number of workers required is more than the induction, labour be restricted to the number of labour available and identified and no

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substitution or induction of fresh labour, who has not actually worked in the depot, be allowed.

20 There is no clause in the decision that the benefit shall be extended only to the identified labour and as a onetime measure. Rather, the language suggests of the same to be an ongoing scheme w.e.f. 01.04.1997 in which the beneficiary under the Direct Payment System were capped at the specified labour i.e. 178 in above case. The other persons would not be covered in case they are in excess, however, where the number falls less, than the induction be restricted to available persons who have been identified and are available. The same prohibited a fresh engagement.

21 A harmonious construction of the clause, on reading with the object sought to be achieved through the decision would require the clause to be read in a manner as would advance the object behind the policy decision.

22 Unfortunately, the Direct Payment System was introduced to provide security to the labour engaged by the Food Corporation of India for which it agreed and devised a formula to cater to a specific number of labour. The respondents thus froze the number of beneficiaries but not the name of the beneficiaries. Persons beyond the said number were not to be extended the benefit and even if the requirement exceeds, yet, the number would remain the same.

23 The respondents then added, “no substitution or induction of any fresh labour who has not actually worked in the depot and has not been identified by the Committee, shall be allowed”. Hence, the decision nowhere

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prohibits inclusion of names of labour actually working and identified by the Committee as on the cut-off date, even at a later point in time when the actual number of identified labour availing the benefit, retires. Besides, while disowning further liability, the respondents refer to the number of persons determined and does not confine it to the persons so determined. Even though, it may appear similar on a plain reading but the difference is real and fundamental. Despite the clause dealing with the assessed number of workman, it does not then state that apart from those identified persons, no other person will be entitled to the benefit, instead it says that persons in excess of 'the number' shall not get the benefit. The determining factor thus is "the assessed number of labour" and not the capping of benefit to the labour identified at the first instance. If the intent was to restrict it as a one-time measure for identified individual, the scheme would not have used the expression "w.e.f." and would have in fact used the expression "as a one time measure" or "restricted to the assessed number of persons as a one time measure" or the expression "as a one time measure as on." What it fixes of course is the identified persons as on 31.03.1997 and not the persons who may be engaged thereafter.

24 The law also being that once a clause has two probable outcomes, the one which is in favour of the other party has to be accepted as against the interpretation favouring the author of the document.

25 Even otherwise, there would be no reason to exclude the benevolent clause to the labour which would fall within the assessed labour

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due to efflux of time, till the currency of scheme. Any such denial would be arbitrary. The State has a right to restrict the beneficiary to a number going by its financial implication but may not have any valid basis not to extend the benefit even to the labour that would fall within the assessed number, over a period of time.

26 The respondents having themselves approved of the strength of 178 workers for Jagraon Depot/Centre and the said recommendation not being for any specific duration or being restricted to any specific number of persons identified, would hence be applicable to the labour working and approved by the Committee as on the cut-off date. Hence, the number having been frozen, as and when a vacancy arose, either on account of retirement or resignation, the person next in line would fall within the said zone of consideration and their module of payment would alter from the payment through the contractor to the direct payment system. The above policy and decision being operative for the entire duration from the year 1997 till the year 2020 when there was a change in the policy of engagement by the respondents after decision by the Nagpur Bench of the Bombay High Court and confirmed by the Hon'ble Supreme Court and to declare Direct Payment System as a dying Cadre. Thus during the interregnum period from the year 1997 till the year 2020 when a new policy decision was taken by the respondents, the workers, who would fall within the zone of consideration for the benefit of direct payment system, in terms of the decision taken by the

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competent authority and as conveyed on 18.02.1997 would be entitled to be brought under the direct payment system.

27 A mere contention of the respondents that since they have not brought any other person under the direct payment system would not in my view justify the action of the respondents. A policy decision having been taken by the respondents and not superseded by any other policy decision was required to be applied and implemented universally to all beneficiaries qua whom such a decision had been taken and fell within the zone of consideration. The failure on the part of the respondents to apply and extend its policy decision to the persons who would otherwise be entitled to claim the benefit thereunder, by their inaction, cannot be a reason to justify the same, rather, the same only shows that the respondents gave little respect to their own policy decision and instead of religiously implementing a decision, they chose to violate the same. Such a conduct on the part of the respondents deserves to be deprecated and cannot be validated by a Court of law.

28 It would also be significant to refer to a relevant extract of the affidavit filed by respondents. The same reads thus: -

“3. That due to appointment of regular persons as in this case, FCI was suffering a huge loss and one PIL No.84 of 2014 was registered as suo moto before Hon'ble Bombay High Court, Nagpur Bench on the basis of one news-item published in Times in India that FCI Loaders under Departmental Labour System were getting salary of Rs.4 lacs per month. Said PIL was decided

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vide order dated 20.11.2015 and Govt. of India was inter alia directed to consider phasing out Departmental Labour Systems as recommended by HLC and said judgment was upheld by Hon'ble Apex Court vide judgment dated 31.7.2017. Accordingly FCI issued circular No.01/2020 dated 8.1.2020 declaring the Departmental System as Dying Cadre. Copy of circular dated 8.1.2020 is annexed herewith as Annexure A-1.

4. That accordingly in State of Punjab almost entire departmental labours have been diminished except in one Depot of Banga, Distt. SBS Nagar where only some workers are still working.

5. That in Bathinda there is no fresh recruitment after 1997. Petitioners are neither working under DPS System nor under No Work No Pay System nor under contract. FCI has also issued advisory to its field officers dated 9.7.2024 that since departmental labour system has declared as dying cadre, prohibiting any new induction/entry of DLS Labour. Under the circumstances no such induction/recruitment is being undertaken under DPS or NWNP Labour System also. Copy of the notification is annexed herewith as Annexure A-2.”

29 It is evident that the PIL No.84 of 2014 was registered suo motto before the Bombay High Court after noticing the recurring loss and a direction to consider phasing out departmental labour system was given. It was only then that the decision to declare the Department Labour System as a Dying Cadre was issued vide Circular No.1/2020 dated 08.01.2020. Hence, all this while, the respondents were conscious of the

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Scheme and never declared it to be a Dying Cadre. The change thus introduced was only w.e.f. 08.01.2020 and it cannot be held applicable retrospectively w.e.f 01.04.1997 and to hold that the Cadre became a dying Cadre since then. If it were so, there was no occasion to hold it as a dying Cadre only w.e.f. 08.01.2020.

30 Even though the counsel for the respondents did raise an argument that there was no work available, however, such an argument is nothing more than a self-serving statement which is not corroborated or which is not borne out from the pleadings on the record of this Court. The argument thus has to be ignored.

31 I am of the opinion that the reasons cited by the respondents about the change of policy in the year 2020 cannot be the basis to oust the workers from the zone of consideration and from the benefits that were to be extended to them on account of the acts during the intervening period i.e. from the year 1997 to the year 2020.

32 So far as the contention of the counsel for the respondents that the petitioners continued to be employed with the contractor and did not come under the direct roll of respondent-FCI is concerned, such an argument clearly shows highhandedness on the part of the respondent-FCI in failing to acknowledge their responsibility and abdicating their obligations of doing what the law mandated and ordained them to perform. The same cannot be cited by the respondents as a reason to deny the benefits to the labour which

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would enure in their favour. The illegality committed by the respondents cannot be the reason to validate an injustice against the workman.

33 Consequently, instant writ petitions are allowed. The respondents are directed to re-ascertain the vacancies that would become available between 1997 to 2020 (when a policy decision was taken superseding the earlier policy decision of 1997) and the workmen who would fall within the approved strength of workers to be brought under the direct payment system and to be extended the said benefit of the direct payment.

34 Let the necessary calculations be done by the respondents within a period of two months of receipt of a certified copy of this order and the requisite financial benefits be disbursed within a further period of three months thereafter.

35 Pending misc. application(s), if any, shall also stand(s) disposed of accordingly.

36 A photocopy of the order be placed on the connected file(s).

August 19, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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