215 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

2025:PHHC:127372

DATE OF DECISION : 08.09.2025

1. **CWP-19223-2017 (O&M)**

PARVEEN KUMAR AND OTHERS **... PETITIONERS**

V/S

STATE OF PUNJAB AND OTHERS **...RESPONDENTS**

2. **CWP-392-2025 (O&M)**

KAMALJEET SINGH AND OTHERS **... PETITIONERS**

V/S

STATE OF PUNJAB AND OTHERS **...RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mohinder Singh Joshi, Advocate with
Mr. Akash Patyal, Advocate for the petitioners.

Mr. Vikas Arora, DAG Punjab.

Mr. Ashok Kumar Bazaz, Advocate for respondent No.3.

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HARPREET SINGH BRAR, J. (ORAL)

1. Vide this common order, I intend to dispose of both the writ petitions mentioned above as the same question of law has been involved therein. However, for the sake of brevity, the facts are taken from CWP-392-2025; Kamaljeet Singh and others Vs. State of Punjab and others.

2. Petition under Article 226 of the Constitution of India is for issuance of writ in the nature of mandamus directing the respondents to regularize the services of the petitioners as Drivers and they be paid the minimum pay scale fixed for the post of Drivers with all consequential benefits.

3. Learned counsel for the petitioners *inter alia* contends that petitioners were recruited as driver in the year 1998 on DC rates. They all have experience of driving before their recruitment. Now the petitioners are driving the vehicles of Municipal Corporation continuously for the last 26 years and there is no complaint against them regarding their skill of driving and there was no condition of education qualification at the time the petitioners were recruited as drivers.

4. Learned counsel for respondent No.3-Municipal Corporation has filed a reply on behalf of respondent No.3-Corporation, which is taken on record. He further submits that the claim for regularisation of the petitioners in CWP-6347-2012 was considered in view of the Government Instructions dated 18.03.2011 (Annexure P-1) and Government Instructions dated 14.11.2011 (Annexure P-2), and it was discovered that neither did they fulfill the condition of completion of 10 years of service as on 01.01.2006 nor had they acquired the minimum educational qualification of middle pass with Punjabi language. Further, the petitioners were not engaged through the prescribed procedure and therefore they are not entitled to regularisation of service in terms of Government Instructions dated 14.11.2011 (Annexure P-2) as well as the judgment rendered by the Hon'ble Supreme Court in ***State of Karnataka v. Umadevi (2006) 4 SCC 1***. The Government was also requested for necessary relaxations vide resolution No.28 dated 12.03.2013, however, the same was refused vide letter dated 05.12.2013 as the service rules did not grant any such powers. Learned counsel further contends that the petitioners did not even acquire the status of work charge or ad hoc employees and therefore, have no vested right for regularisation.

5. Having heard the learned counsels for both the parties and perused the record with their able assistance it transpires that the

Government of Punjab vide order dated 14.12.2021, ordered regularization of services of Safai Sewaks and Sewer Men, who were working on contract basis with the respondent-Corporation but denied the claim of the petitioners for regularisation vide resolution No.392 dated 04.10.2022. Admittedly the above resolution covered the present petitioners and other drivers as well. However, vide memo dated 13.06.2023, the Government had clarified that only those working as Safai Sewaks and Sewer Men shall be regularised. Such approach by implementing the resolution No. 392 dated 04.10.2022 qua some of the similarly situated employees and rejecting the claim of the petitioner for regularisation is highly iniquitous and violative of Article 14 and 16 of the Constitution of India. Further there is no denial that the petitioner has been in service for the past three decades.

6. This Court has been constrained to observe a trend where long term employees are engaged on ad hoc basis, in spite of the perennial nature of the services rendered by them. The State, being a constitutional employer, cannot be allowed to exploit its temporary employees under the garb of lack of sanctioned posts or inability of the employees to meet educational qualifications for regular posts, when they have been consistently serving its instrumentality for a significant time period. Such an approach would be violative of fundamental rights of the temporary employees enshrined in Article 14, 16 and 21 of the Constitution of India. Further still, temporary employees cannot be forced to bear the brunt of lack of financial resources when the State had no qualms about continuously taking advantage of the services rendered with regard to integral and recurring work of the concerned department. Reliance in this regard can be placed on the judgements rendered by the Hon'ble Supreme Court in ***Jaggo v. Union of India and others 2025 AIR SC 296, Vinod Kumar and others v. Union of***

India (2024) 1 SCR 1230 and Shripal & Anr. v. Nagar Nigam, Ghaziabad 2025 SCC OnLine SC 221.

7. Recently, a Two-Judge Bench of the Hon'ble Supreme Court in ***Dharam Singh and Others v. State of U.P. and Another 2025 SCC OnLine SC 1735*** speaking through Justice Vikram Nath has held as follows:

> *"11. Furthermore, it must be clarified that the reliance placed by the High Court on Umadevi (Supra) to non-suit the appellants is misplaced. Unlike Umadevi (Supra), the challenge before us is not an invitation to bypass the constitutional scheme of public employment. It is a challenge to the State's arbitrary refusals to sanction posts despite the employer's own acknowledgement of need and decades of continuous reliance on the very workforce. On the other hand, Umadevi (Supra) draws a distinction between illegal appointments and irregular engagements and does not endorse the perpetuation of precarious employment where the work itself is permanent and the State has failed, for years, to put its house in order. Recent decisions of this Court in Jaggo v. Union of India and in Shripal v. Nagar Nigam, Ghaziabad have emphatically cautioned that Umadevi (Supra) cannot be deployed as a shield to justify exploitation through long-term "ad hocism", the use of outsourcing as a proxy, or the denial of basic parity where identical duties are exacted over extended periods. The principles articulated therein apply with full force to the present case....*
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> *13.* ***As we have observed in both Jaggo (Supra) and Shripal (Supra), outsourcing cannot become a convenient shield to perpetuate precariousness and to sidestep fair engagement practices where the work is inherently perennial. The Commission's further contention that the appellants are not "full-time" employees but continue only by virtue of interim orders also does not advance their case. That interim protection was granted precisely because of the long history of engagement and the pendency of the challenge to the State's refusals. It neither creates rights that did not exist nor erases entitlements that may arise upon a proper adjudication of the legality of those refusals.***
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> ***17. Before concluding, we think it necessary to recall that the State (here referring to both the Union and the State governments) is not a mere market participant but a constitutional employer. It cannot balance budgets on the backs of those who perform the most basic and recurring public functions. Where work recurs day after day and year after year, the establishment must reflect that reality***

> ***in its sanctioned strength and engagement practices. The long-term extraction of regular labour under temporary labels corrodes confidence in public administration and of ends the promise of equal protection.*** *Financial stringency certainly has a place in public policy, but it is not a talisman that overrides fairness, reason and the duty to organise work on lawful lines.*
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> *18. Moreover, it must necessarily be noted that "ad-hocism" thrives where administration is opaque. The State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious engagement over sanctioned posts where the work is perennial. If "constraint" is invoked, the record should show what alternatives were considered, why similarly placed workers were treated dif erently, and how the chosen course aligns with Articles 14, 16 and 21 of the Constitution of India. Sensitivity to the human consequences of prolonged insecurity is not sentimentality. It is a constitutional discipline that should inform every decision af ecting those who keep public of ices running."* (Emphasis supplied)

8. It also appears that both the States of Punjab and Haryana tend to formulate policies in order to circumvent implementation of judgements rendered by the Constitutional Courts. More often than not, the claim for regularization is neither accepted nor denied and the applicant is kept in limbo unnecessarily. The extended ad-hocism of keeping daily wage workers or contractual employees on temporary rolls for decades while extracting regular work is not only unconstitutional but undermines equality and dignity. The State and its instrumentalities being model employer can't perpetuate such exploitation and use excuses like financial constraints, non availability of sanctioned post, and lack of qualification or decision in ***State of Karnataka v. Umadevi (supra)*** as talisman to deny well deserved regularisation on account of their perennial nature of long periods of work at par with their counterparts working on regular posts. Reference in this regard can also be made to the judgment rendered by the Hon'ble Supreme Court in ***Nihal Singh v. State of Punjab, (2013) 14 SCC 65***, a Division Bench of this Court in ***State of Punjab and others v. Sarwan Ram, 2025***

NCPHHC 65364 as well as a Co-ordinate bench in ***Amrish Sharma and others vs. State of Punjab and others*** in ***CWP-19238-2013*** *decided on 26.02.2024* .

9. In the wake of above discussion and findings, this Court is of the considered opinion that both the present petitions deserve to be allowed. The respondents are directed to regularize the services of the petitioners within six weeks from today. If no order of regularization is passed within 6 weeks from today, they shall be deemed to be regularized. The petitioners shall be entitled to counting of past service and other benefits as per judgments rendered by this Court in ***Harbans Lal v. State of Punjab, CWP No.2371 of 2010*** and ***State of Haryana and others v. Jai Bhagwan, LPA No.1892 of 2019***.

10. A photo copy of this order will be placed on the file of connected cases.

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

08.09.2025 **(HARPREET SINGH BRAR)**
Janki **JUDGE**

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