



CWP-527-2016 (O&M) -1-
and other connected case

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

229 CWP-527-2016 (O&M)
Date of Decision: 10.02.2025

1. CWP-527-2016 (O&M)

Union of India and others **Petitioners**

Versus

Makhan Singh and another **Respondents**

2. CWP No.10731 of 2018 (O&M)

Union of India and others **Petitioners**

Versus

Moti Lal and others **Respondents**

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Ms. Puneeta Sethi, Senior Panel Counsel and
Mr. Y.S. Thakur, Advocate
for the petitioners-UOI (in CWP-527-2016).

Mr. Anil Chawla, Senior Panel Counsel
for the petitioners-UOI (in CWP-10731-2018).

Mr. Gagneshwar Walia, Advocate
for respondent No.1 (in CWP-527-2016).

Mr. Dhiraj Chawla, Advocate
for the respondents (in CWP-10731-2018).



**CWP-527-2016 (O&M) -2-
and other connected case**

SANJEEV PRAKASH SHARMA, J (ORAL)

CM-2092-CWP-2025 in CWP No.527 of 2016

This is an application for impleadment of the legal heir of respondent No.1 who has expired during the pendency of the petition.

Learned counsel for the petitioners does not have any objection for his impleadment.

Heard.

In view of the averments mentioned in the application, the same is allowed subject to all just exceptions and the legal heir of respondent No.1 is ordered to be impleaded.

Amended memo of parties is taken on record.

Main Cases

1. Vide this common order, two petitions bearing CWP-527-2016 and CWP-10731-2018, the details of which have been given in the heading, are being disposed of, as the same question of law is involved.

2. The issue raised in the present petition(s) is no more *res integra*. The Union of India assails the order dated 14/19.08.2015 (Annexure P-4) passed by the Central Administrative Tribunal, Chandigarh (for short referred to as 'CAT'), whereby, the CAT passed the order in the following terms:-

“We have given our careful consideration to the matter. It is seen that the applicant was conferred Temporary Status in 1988 and thereafter he continued as such for 20 years before being discharged from service on completion of 60 years of age on 13.12.2008. There is ample case law to support the claim of the



**CWP-527-2016 (O&M)
and other connected case**

-3-

applicant for pension even though he was not regularized while in service ostensibly due to non-availability of regular posts as stated by the respondents in the written statement. Kewal Singh (supra) appears to be squarely applicable in the matter. Moreover in a matter relating to the Chandigarh Administration in "UT Chandigarh & Ors. Vs Sampat & Ors" decided on 03.04.2014, the Apex Court had directed that daily wage work charge staff who had continued to serve the Chandigarh Administration Municipal Corporation for long periods of time and whose services have not been regularized during their service due to non-availability of regular posts should be deemed to be regularized on the date of superannuation and be allowed pension thereafter. The present case merits similar treatment. Hence, the respondents are directed to treat the applicant as having been regularized in service w.e.f. 13.12.2008 and he may be paid pension as per his entitlement thereafter. Action in this regard may be completed within three months from the date of receipt of a certified copy of this order being served upon the respondents".

3. Learned counsel submits that there was no post available and therefore, deemed regularization order could not have been passed and the pension could not have been directed to be released. As per policy, only 25% of the post could have been earmarked for regularization of the temporary employees working in the Department.

4. Learned counsel further submits that the employees who are in excess of 25% post, therefore, cannot be given the said benefit. In the case of '**Jaggo Vs. Union of India and others**' (SC) 2024 INSC 1034, the Hon'ble Supreme Court was hearing an appeal against the order passed by the High Court dismissing the writ petition and confirming the order of CAT rejecting the claim of the appellants seeking regularization of their services.



**CWP-527-2016 (O&M)
and other connected case**

-4-

The said applicants were working as Safai Wala and Khalisis and duties of Mali. Having considered the submissions advanced similar to the submissions which are being advanced before us by the learned counsel for UOI, the Hon'ble Apex Court observed as under:-

22. *The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.*

25. *It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade longterm obligations owed to employees. These practices manifest in several ways:*

• Misuse of "Temporary" Labels:

Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labeled as "temporary" or "contractual," even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.



**CWP-527-2016 (O&M)
and other connected case**

-5-

- **Arbitrary Termination:** *Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.*

- **Lack of Career Progression:** *Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.*

- **Using Outsourcing as a Shield:**

Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.

- **Denial of Basic Rights and Benefits:** *Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.*

27. *In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and*



**CWP-527-2016 (O&M)
and other connected case**

-6-

fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country.

28. *In view of the above discussion and findings, the appeals are allowed. The impugned orders passed by the High Court and the Tribunal are set aside and the original application is allowed to the following extent:*

- i. The termination orders dated 27.10.2018 are quashed;*
- ii. The appellants shall be taken back on duty forthwith and their services regularized forthwith. However, the appellants shall not be entitled to any pecuniary benefits/back wages for the period they have not worked for but would be entitled to continuity of services for the said period and the same would be counted for their post-retiral benefits”.*

5. The judgment rendered was quoted again in the case of ‘***Shripal and another Vs. Nagar Nigam, Ghaziabad***’, 2025 INSC 144 passed in Civil Appeal No.8157 of 2024 and the Hon’ble Apex Court observed as under:-

“16. The High Court did acknowledge the Employer’s inability to justify these abrupt terminations. Consequently, it ordered re-engagement on daily wages with some measure of parity in minimum pay. Regrettably, this only perpetuated precariousness: the Appellant Workmen were left in a marginally improved yet still uncertain status. While the High Court recognized the importance of their work and hinted at eventual regularization, it failed to afford them continuity of service or meaningful back wages commensurate with the degree of statutory violation evident on record.

17. In light of these considerations, the Employer’s discontinuation of the Appellant Workmen stands in violation of the most basic labour law principles. Once it is established that their services were terminated without adhering to Sections 6E



**CWP-527-2016 (O&M)
and other connected case**

-7-

and 6N of the U.P. Industrial Disputes Act, 1947, and that they were engaged in essential, perennial duties, these workers cannot be relegated to perpetual uncertainty. While concerns of municipal budget and compliance with recruitment rules merit consideration, such concerns do not absolve the Employer of statutory obligations or negate equitable entitlements. Indeed, bureaucratic limitations cannot trump the legitimate rights of workmen who have served continuously in de facto regular roles for an extended period.

18. The impugned order of the High Court, to the extent they confine the Appellant Workmen to future daily-wage engagement without continuity or meaningful back wages, is hereby set aside with the following directions:

I. The discontinuation of the Appellant Workmen's services, effected without compliance with Section 6E and Section 6N of the U.P. Industrial Disputes Act, 1947, is declared illegal. All orders or communications terminating their services are quashed. In consequence, the Appellant Workmen shall be treated as continuing in service from the date of their termination, for all purposes, including seniority and continuity in service.

II. The Respondent Employer shall reinstate the Appellant Workmen in their respective posts (or posts akin to the duties they previously performed) within four weeks from the date of this judgment. Their entire period of absence (from the date of termination until actual reinstatement) shall be counted for continuity of service and all consequential benefits, such as seniority and eligibility for promotions, if any.

III. Considering the length of service, the Appellant Workmen shall be entitled to 50% of the back wages from the date of their discontinuation until their actual reinstatement. The Respondent Employer shall clear the aforesaid dues within three months from the date of their reinstatement.

IV. The Respondent Employer is directed to initiate a fair and



**CWP-527-2016 (O&M)
and other connected case**

-8-

transparent process for regularizing the Appellant Workmen within six months from the date of reinstatement, duly considering the fact that they have performed perennial municipal duties akin to permanent posts. In assessing regularization, the Employer shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Appellant Workmen or to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the Respondent Employer shall expedite all necessary administrative processes to ensure these longtime employees are not indefinitely retained on daily wages contrary to statutory and equitable norms”.

6. In the present case, we find that the applicants-respondents were conferred temporary status on 30.10.1998 and attained superannuation on 13.12.2008 after completion of more than 10 years as a temporary employees. They, therefore, were required to be regularized and given the benefit of a regular employees. The denial by the petitioners on the ground that out of the posts of Group-D, only 25% posts are to be earmarked for regularization. Once a person has been placed in the temporary status and starts getting regular pay-scale, merely because a substantive post is not created in his favour, would only result in his non-confirmation. However, the retiral benefits ensue from the period of service rendered with the Department and are to be calculated on the basis of last pay drawn.

7. At this stage, learned counsel for the petitioners-UOI invites attention to the policy which speaks of only utilizing 50% of the service of temporary status for the purpose of pension. We are in complete disagreement to such a proposal. Such provisions are clearly arbitrary and



**CWP-527-2016 (O&M)
and other connected case**

-9-

smack of nepotism. The officers cannot by issuing circulars delete or ignore the service rendered by the Class-IV employees. There is no reason to deny the complete service rendered on temporary basis for the purpose of pension since the petitioners received salary regularly for the complete period.

8. In view of the discussion as above, the challenge to the order passed by the Central Administrative Tribunal dated 14/19.08.2015 fails. The order passed by the Central Administrative Tribunal is upheld. The compliance of the order shall now be made at the earliest and the pension and retiral benefits shall be released to the respondents, concerned employees along with interest @ 9% per annum. The writ petitions are accordingly dismissed with cost of Rs.20,000/- to be paid to the concerned respondents.

9. The pending misc. application(s), if any, shall stand disposed of accordingly.

**(SANJEEV PRAKASH SHARMA)
JUDGE**

**(MEENAKSHI I. MEHTA)
JUDGE**

10.02.2025
D.Bansal

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