



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CM-368-CWP-2020 IN/AND
CWP-7830-2017 (O&M)
Decided on :07.04.2025

KAMALJEET

. .Petitioner

Versus

STATE OF PUNJAB AND OTHERS

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. R. K. Arora, Advocate for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)**CM-368-CWP-2020**

The prayer in the present application is for placing on record Annexures P-10 & P-11 and also for listing the case which was adjourned sine die on 05.02.2019.

Keeping in view the averments mentioned in the application, the same is allowed. Copy of Annexures P-10 & P-11 are taken on record subject to all just exceptions and on the request of the learned counsel for the parties, the present petition is taken on board today itself.

Main Case:

1. In the present petition, the prayer of the petitioner is that although the petitioner has been working on the post of Pump Operator with the respondents-Department from 15.01.1997 onwards and as of now, the petitioner has worked with the respondents-Department for a total of 28 years but still the services of the petitioner have not been regularized by the respondents-department .

2. Learned counsel for the petitioner submits that once the post of



Pump Operator is duly available with the respondents-department and the petitioner has been working continuously on the said post from the last 28 years, respondent-department is under obligation to consider the claim of the petitioner for regularization of his services in view of the regularization policy dated 23.01.2001 (Annexure P-1) and other subsequent policies issued qua regularisation of services enunciated by Government of Punjab, by passing an appropriate speaking order qua the same.

3.. Learned counsel for the respondents-department on the other hand submits that in case, the claim of the petitioner for regularization of his services is covered under the regularization policy dated 23.01.2001 (Annexure P-1) or any other subsequent policies issued qua regularization of services, the benefit of regularization of his services will be granted to the petitioner but in case, the claim of the petitioner is not covered by the said regularization policies issued by the State of Punjab then also an appropriate speaking order will be passed in this regard by giving due reasons for not accepting the claim.

4. I have heard learned counsel for the parties and have gone through the case file with their able assistance.

5. As per the judgment passed by Hon'ble Supreme Court of India in Secretary, State of Karnataka & Ors. Vs. Uma Devi 2006 (4) SCC 1 decided on 10.04.2006, it has been held that an employee who has completed ten years in service, he/she is entitled for regularization of his/her services.

6. Further, the same issue with regard to the regularization of various part time employees as well as temporary employees, who had sufficiently long service to their credit came up for consideration before the Hon'ble Supreme Court of India in Civil Appeal No. 14831 of 2024 titled 'Jaggo Vs. Union of India', decided on 20.12.2024 wherein by placing



reliance upon the judgment in *Uma Devi's case (supra)*, the Hon'ble Supreme Court of India has held that wherever an employee completes 10 years in service, his services should be regularized so as to avoid any prejudice to the workman. The relevant paragraph of the said judgment is as under:

“xxx 20. It is well established that the decision in Uma Devi (supra) does not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment sought to prevent backdoor entries and illegal appointments that circumvent constitutional requirements. However, where appointments were not illegal but possibly “irregular,” and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a scenario demanding fair regularization. In a recent judgement of this Court in Vinod Kumar and Ors. Etc. Vs. Union of India & Ors.⁵, it was held that held that procedural formalities cannot be used to deny regularization of service to an employee whose appointment was termed “temporary” but has performed the same duties as performed by the regular employee over a considerable period in the capacity of the regular



employee. The relevant paras of this judgement have been reproduced below:

“6. The application of the judgment in Uma Devi (supra) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over a considerable period through continuous service. Their promotion was based on a specific notification for vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in the case of Uma Devi (supra).

7. The judgement in the case Uma Devi (supra) also distinguished between “irregular” and “illegal” appointments underscoring the importance of considering certain appointments [2024] 1 S.C.R. 1230 even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case...” xxx



26. *While the judgment in Uma Devi (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between “illegal” and “irregular” appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in Uma Devi (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.*

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 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.”

7. The same question of regularization of the services of an employee again came up for consideration before the Hon'ble Supreme Court of India in **Civil Appeal No. 8158-7179 of 2024 titled as Shripal and another Vs. Nagar Nigam, Ghaziabad, decided on 31.01.2025,** where nonregularization of the services of an employee who had completed more than 20 years of service has been treated as arbitrary and illegal and has been described as exploitation. The relevant paragraphs of the said judgment are as under :

“xxx 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 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.”

8. In the present case, the petitioner has been working with the respondents-department for the last 28 years as Pump Operator, hence, the assertion of the respondents-department that the post of Pump Operator is not in existence with the respondent-Department cannot be accepted. Keeping in view the fact that the petitioner has worked for the last 28 years with the respondents-department as Pump Operator, the job of the Pump Operator is required so as to consider the claim of the petitioners to regularization of his service to be regularized.

9. At this stage, learned counsel for the petitioner submits that the claim of the petitioner qua regularization of his service is not being accepted on the ground that upto December, 2006, 2006 being considered as a cut-off date as per **Uma Devi's case (supra)**, the petitioner was short by 14 days to complete 10 years of service.

10. Even it is assumed that for the sake of argument that the petitioner had worked less than 14 days of service till the year 2006, but now thereafter, the petitioner has rendered 19 years more in service which period of service should be considered equivalent to 14 days service so as to consider his service completed for 10 years which number of days were less as of on December, 2006. Therefore, the claim of the petitioner will not be rejected merely on the ground that the petitioner did not have 10 years of service to his credit upto the year 2006 keeping in view the fact that after



December, 2006, the petitioner has rendered more than 19 years of service with respondent-department.

11. Keeping in view the above facts and circumstances of the present case and also in view of the settled principal of law as settled by Hon'ble Supreme Court of India in **Jaggo's case (supra)**, the respondents-department are directed to consider the claim of the petitioner for regularization of his services under the policy dated 23.01.2001 (Annexure P-1) or any subsequent regularization policy issued by the State of Punjab and in any of such Policy by passing an appropriate speaking order. In case, the claim of the petitioner is covered in any of such regularization policy, the benefit of regularization of services be granted to the petitioner forthwith.

12.. It may be noticed that the petitioner has worked for a period of 28 years with the respondent-department, the claim of the petitioner cannot be rejected by the respondents on the ground that there is no post of Pump Operator available with the respondents-department and that the petitioner was not appointed through the regular agency.

13. Let an appropriate speaking order on the claim of the petitioner for regularization of his services be passed by the respondents-department within the period of 8 weeks of the receipt of certified copy of this order.

14. The present petition is disposed of in above terms.

15. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

07.04.2025

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No