



**107+108 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**Date of Decision : 04-02-2025**

**1.**

**CM-1280-1281-1282-1283-CWP-  
2025 in/and CWP No.3807 of 1998**

**CHITRANJAN KUMAR**

**.....Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**.....Respondent(s)**

**2.**

**CWP No.15629 of 1999 (O&M)**

**RAM SINGH, CARPENTER (RETIRED) THROUGH HIS LRS.**

**.....Petitioner**

**VERSUS**

**STATE OF PUNJAB AND OTHERS**

**.....Respondent(s)**

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Kshitiz Goel, Advocate  
for the petitioner in CWP No.3807 of 1998.

Mr. Ram Bilas Gupta, Advocate  
For the petitioner in CWP No.15629 of 1999.

Mr. T.P.S Chawla, Sr. DAG Punjab.

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**HARSIMRAN SINGH SETHI, J. (Oral)**

**CM-1280-CWP-2025**

1. This application has been filed for recalling the order dated  
14.10.2024, whereby the petition was dismissed for non-prosecution.

2. Notice of the application.

**CM-1280-1281-1282-1283-CWP-2025 in/and  
CWP No.3807 of 1998 and other connected case**

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3. Mr. T.P.S Chawla, Sr. DAG Punjab accepts notice on behalf of the non-applicant-respondent and states that he has no objection to this course of action. For the reasons recorded, the application is allowed.

4. Main case is taken up for hearing today itself.

**CM-1282-CWP-2025**

1. This is an application for impleading the LRs of petitioner (since deceased) in the present writ petition.

2. In view of the contents mentioned in the application, the same is allowed. The LRs of petitioner are impleaded as party to the present petition only for the purpose of prosecuting the present case.

3. Registry is directed to make necessary changes in the memo of parties by impleading the LRs of the petitioner as party to the present petition.

**CM-1281-1283-CWP-2024**

This is an application for placing on record amended memo of parties and exemption from filing certified and typed copies of the same.

Keeping in view the contents mentioned in the applications, the same are allowed. Amended memo of parties is taken on record subject to all just exceptions.

Exempted from filing certified and typed copies.

**CWP No.3807 of 1998 and CWP No.15629 of 1999**

1. Present set of two writ petitions involve common question of law in the context of common set of facts and thus they are being decided by a common order.

2. In the present set of two petitions, the grievance being raised by the petitioners is that the work charge service rendered by the petitioners has not been taken into account for the grant of pensionary benefits.

3. For the sake of convenience, the facts are being taken from CWP No.3807 of 1998. The petitioner was initially appointed as Silt Observer on 01.10.1981 but as the post of Silt Observer was abolished w.e.f. 01.12.1985, the petitioner was re-designated as Head Laboratory Attendant from the said date on which post, the petitioner continued working.

4. As per the averments made in the petition, the regular pay scale was being given to the petitioner and the pay scale of the petitioner was also revised w.e.f 01.01.1986 and the service which the petitioner had rendered on work charge basis starting from 01.10.1981 onwards was treated as a valid service for the grant of proficiency step up of his pay on completion of 8 years of service while working on the post of Head Laboratory Attendant. The petitioner retired from service on attaining the age of superannuation on 31.08.1995. Thereafter, the petitioner was given the benefit of leave encashment as well as gratuity but was denied the regular pension admissible to him on the ground that till the date, the petitioner attained the age of superannuation, he was working on the work-charged basis and his services are never regularised. The said action of the respondents declining the benefit of pension to the petitioner has been challenged in the present petition on the ground that the petitioner is to be deemed regular employee keeping in view the fact that the petitioner had more than 10 years of service to his credit at the time when he attained the age of superannuation hence,

the respondents are under obligation to grant the petitioner the benefit of pension.

5. Upon notice of motion, the respondents have filed the reply wherein, the only objection of the respondents is that the petitioner(s) retired as a work-charged employee and not as a regular incumbent hence, they are not entitled for the grant of pension.

6. I have heard learned counsel for the parties and have gone through the records of the present set of cases with their able assistance.

7. The only question which has been raised in the present set of petitions is whether the petitioner(s) are to be treated as deemed regular employees so as to be entitled for the grant of pension or not. It is a conceded position that the petitioner(s) initially joined in October, 1981 in CWP No.3807 of 1998 and continuously worked with the State of Punjab till 31.08.1995. The petitioner was granted the regular pay scale as well as all the other benefits admissible to a regular employee including the proficiency step up. The petitioner was also made eligible for the revised pay scale from 01.01.1986 onwards.

8. Once, all these benefits which are admissible to a regular employee, were made admissible to the petitioner, nothing has come on record that despite having more than 14 years of service, why the services of the petitioners were not regularised despite the fact that it is a conceded case that prior to the superannuation of the petitioner on 31.08.1995, there were policies which were issued for the regularisation the services of the employee who has 3 years of service to his/her credit.

9. Learned counsel for the respondents has not been able to rebut that the regularisation policy existed for regularising the services of the work-charged employees prior to the date when the petitioner in CWP No.3807 of 1998 attained the age of superannuation on 31.08.1995.

10. Further with regard to the prayer of the petitioners that they should be deemed to be a regular employee for the grant of pension, the same needs to be considered in light of the judgment of the Hon'ble Supreme Court of India in Civil Appeal No.6798 of 2019 titled "**Prem Singh Vs. State of Uttar Pradesh and ors.**", decided on 02.09.2019. The relevant paragraph 35 of the said judgment is as under:-

*"35. There are some of the employees who have not been regularised in spite of having rendered the services for 30-40 or more years whereas they have been superannuated. As they have worked in the work-charged establishment, not against any particular project, there services ought to have been regularised under the Government instructions and even as per the decision of this Court in **Secretary, State of Karnataka & Ors. Vs. Uma Devi 2006 (4) SCC 1**. This Court in the said decision has laid down that in case services have been rendered for more than 10 years without the cover of the Court's order, those employees who have worked for ten years or more should have been regularised. It would not be proper to regulate them for consideration of regularisation as others have been regularised. It would not be proper to regulate them for consideration of regularisation as others have been regularised, we direct that their services be treated as a regular one. However, it is made clear that they shall not be entitled to claiming any dues of difference in wages had they been continued in services regularly before attaining the age of superannuation. They shall be entitled to receive the pension as if they have retired from the regular establishment and the services rendered by them right from the day they entered the work-charged establishment shall be counted as qualifying service for the purpose of pension."*

11. A bare perusal of the above reproduction would show that the Hon'ble Supreme Court of India has held that where an employee has completed 10 years of service, though he/she might be working on work-

charge basis upto the date of he/she has attained the age of superannuation, they are to be granted the benefit of deemed regularisation in service only for the grant of pensionary benefits.

12. Learned counsel for the respondent-State has not been able to dispute the fact that the petitioners have rendered more than 10 years of service on the date when they attained the age of superannuation. That being so, the claim of the petitioners for deemed regularisation of their services for the grant of pensionary benefits only, is covered by the judgment in ***Prem Singh's case (supra)***.

13. The question of regularisation of services of the employees 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 again held that wherever an employee completes 10 years of service, his services should be regularised 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. v. Union of India & Ors. [2024] 1 S.C.R. 1230, it was 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 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*

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. XXX "*

14. Again, the same question of regularisation of services came up for consideration before the Hon'ble Supreme Court of India in Civil Appeal No.8158-7179 of 2024 titled "***Shripal and anr. Vs. Nagar Nigam, Ghaziabad***" decided on 31.01.2025, wherein the Hon'ble Supreme Court of India has held the State being a welfare State cannot exploit the employees so as to keep them on work-charged basis for years together and not to regularise their services so as to cause prejudice to them. The Hon'ble Supreme Court of India held that where an employee has completed 10 years of service, he/she should be granted the benefit of regularisation. By applying the settled principle of law cited hereinbefore in case of the petitioners, it is clear that the petitioners worked for more than 10 years with the respondents and retired while working on work-charged basis and have not been given the benefit of pension or other pensionary benefits only on the said account. The said action of the respondents is totally arbitrary and illegal as the employees who have given their prime to the respondents, needs a security in the shape of pension/pensionary benefits so as to sustain them. The relevant paragraph of the said judgment is as under:-

*"XXX. 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:*

*XXX. IV. The Respondent Employer is directed to initiate a fair and transparent process for regularising 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 regularisation, 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. XXX”*

15. Learned counsel for the respondents has placed reliance upon the judgment in Civil Appeal No.7068 of 2022 titled “***Sunita Burman Va. The Commissioner, M.P. Housing and Infrastructure Development Board and ors.***”, decided on 14.10.2022 to contend that after considering the judgment in ***Prem Singh’s case (supra)***, the Division Bench of the Hon’ble Supreme Court of India has held that the work-charged employee is not entitled for the pension.

16. A bare perusal of the judgment in ***Sunita Burman’s case (supra)*** would show that the benefit was not granted to the petitioners therein on the ground that even while working on a work-charged basis, there was a pension scheme with the respondents, to which the employee concerned had not opted for and the Hon’ble Supreme Court of India held that once, employee had not opted for pension scheme which was admissible to a work-charged employee, granting him the benefit of regular pension, as a regular incumbent, will not be admissible.

17. The Hon'ble Supreme Court of India has only differentiated the judgment in *Prem Singh's case (supra)*, not applicable in the said case.

18. In the present set of cases, no such scheme existed with the State of Punjab so as to grant pension to a work-charged employee. In the absence of the said fact, the applicability of the said judgment in *Sunita Burman's case (supra)*, to the present case, cannot be accepted. Keeping in view the above, as the petitioner had 14 years of service to his credit at the time when he attained the age of superannuation and minimum service required for the grant of pension is 10 years, which fact has gone unrebutted, the petitioner be deemed to be a regular employee on the date when he attained the age of superannuation. The salary which the petitioner was getting at the time of superannuation will be the salary which will be taken into account for computing the pension of the petitioner.

19. It may be noticed that on the basis of this order, the petitioner will not claim any arrears of salary or any other service benefits except pension and arrears of pension.

20. With regard to the petitioner in CWP No.15629 of 1999, learned counsel for the respondents submits that though there was a policy under which the regularisation was done of the employees who were working on work-charged basis as on 13.03.1996 but though the petitioner was working on a Class-III post on the said date and the retirement age is 58 years and the regularisation was done on 13.03.1996, the petitioner had already crossed the age of superannuation, the petitioner cannot be granted the benefit of regularisation though, it is a conceded fact that the petitioner remained in service upto 30.04.1996. The reliance has been placed upon the

judgment of the Co-ordinate Bench of this Court in CWP No.820 of 1991 titled "***Balwant Singh Vs. Haryana State Electricity Board***", decided on 27.04.2005.

21. Learned counsel for the respondents submits that once the petitioner had already crossed the age of 58 years, he is deemed to be retired before the regularisation policy was implemented.

22. The claim of the respondents is that the petitioner had already crossed the age of 58 years applicable for a Group-C employee but subsequently, the Hon'ble Supreme Court of India in ***Prem Singh's case (supra)***, has held that in a case an employee has worked for 2-3 decades, he/she cannot be denied the benefit of deemed regularisation. Once, subsequent to the judgment in ***Balwant Singh's case (supra)***, the benefit has been given by the Hon'ble Supreme Court of India in ***Prem Singh's case (supra)***, the said judgment is to be made applicable as, the pension is a benefit legislation and has to be interpreted in a manner so that it benefits the employees and not the employer in case, the same can be done.

23. Keeping in view the above, as the petitioner in CWP No.15629 of 1999 namely Ram Singh had rendered 28 years of service before he attained the age of superannuation coupled with the fact that on the date when services of employees were regularised on 13.03.1996, petitioner was in service, said benefit could not have been denied to the petitioner and he was also entitled for deemed regularisation on the date i.e. 13.03.1996 when he was in service prior to the date he attained the age of superannuation in the cadre in which he was working, only for the purpose for the grant of pensionary benefits along with arrears and not any other service benefits.

24. The pension for which the petitioner(s) becomes entitled for be extended to him along with arrears and upto the date of his death as the petitioner in CWP No.3807 of 1998 has already died, the wife of the petitioner be extended the family pension as admissible to her keeping in view the pension which is ascertained qua the claim of the petitioner after the death of the petitioner.

25. In the facts and circumstances of the present case as, the claim of the petitioner(s) is being decided today qua his entitlement for pension, the petitioners are not entitled for any interest on arrears.

26. Present petitions are disposed of in above terms.

27. Let the order be complied with within a period of 8 weeks from the receipt of copy of this order.

28. Pending application, if any, also stands disposed of.

04-02-2025  
Sapna Goyal

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

NOTE: Whether speaking: YES  
Whether reportable: NO