



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

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**CWP-26095-2021 (O&M)
Date of Decision: 12.08.2025**

U.T. Chandigarh

...Petitioner

Versus

Anju and others

...Respondents

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

Present: Mr. Anil Kumar Sharma, Advocate
for the petitioner.

Mr. Bikramjit Singh Patwalia, Advocate
for the respondents.

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the order dated 10.05.2019 (Annexure P-5) passed by the Central Administrative Tribunal wherein, direction has been given to the Chandigarh Administration to comply with the order dated 27.01.2016 passed by the Central Administrative Tribunal in letter and spirit qua consideration for claim of the respondents qua regularization of their services, on which post they have been working since 1996.



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2. Learned counsel appearing on behalf of the petitioner argues that after the passing of the order dated 27.01.2016 by the Tribunal, the claim was considered and the same was rejected vide order dated 01.06.2016 (Annexure A-2). Learned counsel for the petitioner argues that rather than assailing the said order before appropriate Forum, the respondent employees chose to file an execution application for the implementation of the order dated 27.01.2016, which order according to the petitioner had already been complied with. Learned counsel for the petitioner submits that in the execution proceedings, the issue was again considered and a finding was recorded that the directions given in the order dated 27.01.2016 passed by the Tribunal has not been complied with in letter and spirit and again the direction was given to consider the claim of the respondents for regularization of their services in letter and spirit of the said order dated 27.01.2016.

3. Learned counsel for the petitioner argues that in the absence of any challenge to the order dated 01.06.2016 (Annexure A-2) by which the claim of the petitioner was rejected, no order qua the claim of the respondent could have been passed by the Tribunal. Learned counsel for the petitioner further submits that for a contractual employee, who are seeking benefit of regularization in service, the only benefit that can be given is the benefit of age relaxation, is in case they have to compete with the other employees for regular selection.

4. Learned counsel appearing on behalf of the respondents submits that the present petition was filed in the year 2021 after which, the law has undergone a change and keeping in view the dynamics, the petitioner itself were under the obligation to consider the claim of the respondents for



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regularization of their services on the post of Data Entry Operator, on which post they have been working for about last three decades.

5. Learned counsel for the respondents argues that as per the settled principle of law settled by the Hon'ble Supreme Court of India in Civil Appeal No.14831 of 2024 decided on 20.12.2024 titled **Jaggo vs. Union of India and others**, as well as the direction given in Civil Appeal No.8157 of 2024 decided on 31.01.2025 titled **Shripal and another vs. Nagar Nigam, Ghaziabad**, the petitioner is under an obligation not only to create the posts of Date Entry Operators but also, he has not to be refrained from enforcing the employees, who have been working with petitioner for the last three decades to be ousted from their service on the ground of non-possession of the required qualifications.

6. We have heard learned counsel for the parties and have gone through the record with their able assistance.

7. The question which arises for the determination is whether, the respondents should be made to approach the Tribunal again so as to challenge the order dated 01.06.2016 (Annexure A-2) passed by the petitioner by which claim of the respondent for regularization of their service was declined, which order was passed in pursuance to the directions given by the Tribunal vide order dated 27.01.2016 to consider the claim of the respondents qua regularization of their service.

8. It may be noticed that the respondents have been working as Data Entry Operators for the last three decades and nothing has come on record to show that their services bear any blot or they are not efficient in performing their duties.



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9. The only argument being raised by the learned counsel for the petitioner to deny the said claim is that there are no posts of Date Entry Operators available as of now and therefore, the services of the respondents cannot be regularized. It may be noticed that the work in the department is being done through the use of computers and the respondents are working on computers as Date Entry Operators. It is not the case that the services which the respondents are discharging are no longer required or even if the services of the respondents are terminated, no fresh hands will be employed to perform such duties. Once, the duties being performed by the respondents-employees form an integral part of the performance for running the office, the only question which now arise is whether, the petitioner can be allowed to deny the respondents the benefit of regularization of their service only on the ground that for the last 30 years, despite respondents being working regularly there is no need of creating such post so as to grant the benefit of regularization of service to the employees, who have dedicated the precious 30 years of their lives to the petitioner-department.

10. The said question is to be considered on the basis of the settled principle of law settled by the Hon'ble Supreme Court of India recently. Firstly, in *Jaggo's case (supra)* the Hon'ble Supreme Court of India has held that where an employee has worked for a period of 10 years, keeping in view the direction given by the Hon'ble Supreme Court of India in *State of Karnataka vs. Uma Devi, 2006 (4) SCC 1*, the department is under obligation to consider the claim of regularization of the services of such employees. The Hon'ble Supreme Court of India has further held that where the job being performed by the employees is not only essential but also is required to be



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performed, the necessary action should be taken to regularize such appointment.

11. In the present case, the respondents' name were sponsored by the Employment Exchange and thereafter, they were appointed to work as Data Entry Operators and they have been performing their duties for the period of 30 years and the only ground taken not to grant the benefit of regularization is that there are no available posts for Date Entry Operators. Being a model employer, the decision should have been taken by the petitioner to create posts for such work, which forms an essential part of the running of the organization/department of the petitioner where the respondents have been working.

12. Even in *Shripal's case (supra)*, the Honble Supreme Court of India has held that while considering the claim of the workers for regularization of their service, no embargo should be imposed upon a non-regularized employee qua the educational or procedural criteria or, that they never applied for the posts in the manner in which it was required to be done. The Hon'ble Supreme Court of India has held that even if the sanctioned vacancies qua the duties that are required to be done exist or are required, necessary action shall be taken by the department concerned to expedite the administrative process so as to grant the benefit of regularization to the employees. The relevant direction No.IV of paragraph 18 is as under:

“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



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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.”

13. Learned counsel for the petitioner submits that it may be noticed that the respondents were given the option to be considered for the post of Clerk by granting them age relaxation when such posts were advertised but, the respondents chose not to compete for the same. It may be noticed that merely the respondents did not compete for another post for which they were being given the benefit of age relaxation does not take away their right for regularization of their service against the post of Data Entry Operator against which they have been working for the last 30 years keeping in view the settled principle of law noticed hereinabove. Further, it has already come on record that the petitioner-department recommended the case of the respondents for regularization of their service which is a conceded fact as has also been noticed by the Tribunal in the impugned order, which fact has gone un rebutted at the time of hearing. Learned counsel appearing on behalf of the petitioner submits that though the department was in favour of regularizing the services of the respondents but, as there were no available post of Data Entry Operator, the said proposal of regularization could not be taken to the logical end hence, under these circumstances when the department itself requires the services of the respondents which services from an integral part of the working of the



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department coupled with the recommendations made by the petitioner to the higher authorities for regularization of their services, keeping in view the judgments in *Jaggo's case (supra)* and *Shripal's case (supra)*, the same can be complied with by the petitioners now.

14. Keeping in view the totality of the circumstances, present one is a fit case where the direction should be given to the petitioner to consider the case of the respondents-employees for regularization of their services as per the judgments in *Jaggo's case (supra)* and *Shripal's case (supra)*. In case, there are no available posts, efforts should be made to create such posts without which, the requirements of the department for their smooth operation cannot be fulfilled. The claim of the respondents will not be rejected on the ground of non-availability of posts or, that they are over age. It may be noticed at the cost of repetition that nothing has come on record to show that the respondents are not efficient in performing their duties or, that they have misbehaved or misconducted during the period of 30 years of their service for which they have been performing duties with the petitioner-department.

15. At this stage, this Court has been informed by the learned counsel for the respondents that the Cadre of Data Entry Operator and Clerk has already been merged hence, the petitioner will be at liberty to consider the claim of the respondents for regularization under this order either for the post of Data Entry Operator or the Clerk, which is feasible and in case, there are no posts of Data Entry Operator and the same are to be created, liberty will be with the petitioner to create the post of Data Entry Operator or convert the available post of Clerk into Data Entry Operator to consider the claim of the respondents.



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16. The writ petition is disposed of in the above terms.
17. Pending applications, if any, also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

August 12, 2025

Varinder

Whether speaking/reasoned : Yes

Whether reportable : No