

**CM-678-LPA-2025 in/and.  
RA-LP-8-2025 in LPA-1298-2023**

2025:PHHC:048790-DB



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

**CM-678-LPA-2025 in/and  
RA-LP-8-2025 in  
LPA-1298-2023  
Date of decision: 08.04.2025**

**BALKESH RAJ AND OTHERS** ..... Applicant-appellant(s)  
**Versus**

**STATE OF PUNJAB AND OTHERS** ..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL  
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. K.L. Arora, Advocate for applicant-appellants.

Mr. R.S. Pandher, Senior DAG, Punjab.

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**LISA GILL, J.**

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Prayer in this application is for condonation of delay of 239 days in re-filing the review application.

It was submitted that review application was filed within limitation on 23.04.2024. Some objections were raised by the Registry. However, on account of renovation, which was going on in the office of counsel, file of present case was mixed up with other cases and could not be refiled within the stipulated period. It was submitted that delay in filing was neither intentional or deliberate and applicant has nothing to gain by such delay. No serious objection was raised by learned counsel for respondent.

For the reasons mentioned in the application and argument addressed, besides the stand of respondents, delay of 239 days in re-filing of review application is condoned.

Application is accordingly disposed of.

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**RA-LP-8-2025**

1. Applicant/appellants seek review of order dated 20.03.2024 whereby LPA No.1298 of 2023, filed by them has been dismissed alongwith 12 other appeals.

2. Learned counsel for applicant/appellants submitted that **LPA-1298-2023** alongwith other connected LPAs was listed for hearing on 20.03.2024. At request of learned counsel for appellants in **LPA-623-2023**, matter was taken up out of turn, due to which counsel representing present applicant-appellants i.e. in **LPA-1298-2023** and some appellants in other appeals could not appear at the time of arguments and that order dated 20.03.2024 has been passed in the absence of counsel for applicant/appellants, leading to grave prejudice to them.

3. Learned counsel for applicant-appellants submitted that **CWP No.18865 of 2012** had been filed by appellants seeking a direction to respondents to consider and regularize services of appellants who had been working in the capacity of Mali-cum-Chowkidar, Patrol Man, Pump Operator, Beldar, Helper, Chowkidar, Ledger Keeper, Keyman etc. from the date of their initial appointment and grant all consequential benefits as their case was squarely covered by decision dated 22.01.2010, passed in **CWP-3228-1988**, titled 'State of Punjab Vs. Presiding Officers and others', decision dated 22.01.2010, in **CWP-4817-1988**, titled 'Kesar Singh and others Vs. State of Punjab and others'. Moreover, request of similarly situated workmen as allowed in the aforesaid writ petitions, upholding award dated 23.09.1987 passed by learned Tribunal, had been implemented.

4. It was further submitted by learned counsel for applicant-appellants that learned Single Bench vide order dated 31.01.2023 had erred in not considering the fact that once the benefit as claimed by present applicant-

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appellants had been granted to similarly situated employees way back on 23.09.1987, with the said award having attained finality in the year 2010, same could not be denied to the present applicants. Learned counsel for applicant-appellants submitted that Division Bench while deciding the bunch of appeals vide decision dated 20.03.2024 has observed in para 8 thereof that writ petitioners had to specifically plead and prove that persons who were beneficiaries of the award dated 23.09.1987, were identically situated or were their juniors and despite that they had been granted benefits. Claim on the ground of parity invoking provisions of article 14 of the Constitution of India has been incorrectly rejected because present applicants have specifically pleaded in the writ petition that they are similarly situated as the employees who had been given the benefit under the award dated 23.09.1987, which had ultimately attained finality in 2010. Pleadings in various paras of writ petition in this regard have been reproduced in the application and had been referred to copiously by learned counsel for applicant-appellants. It was thus prayed that present application be allowed, impugned order dated 31.01.2023 qua present applicant-appellants be set aside and the matter be heard afresh by the appropriate Bench, as per roster (as the present is a Special Bench) in accordance with law.

5. Learned counsel for State has opposed the application while submitting that all pleas as have been raised by appellants in the writ petition have been considered in decision dated 20.03.2024. Case of present applicant-appellants is not distinguishable in any manner from the other appellants, who were duly represented by their counsel. It is thus prayed that this application be dismissed.

6. We heard learned counsel for parties at length and have carefully perused the file. Filing of CWP-18865-2012 by the applicants-appellants with

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the prayer as mentioned in the foregoing paras, dismissal of their writ petition by learned Single Bench vide order dated 31.01.2023 as well as dismissal of appeal filed by them alongwith 12 other appeals, is a matter of record. It is pertinent to note that in impugned order dated 20.03.2024, it is specifically mentioned that all writ petitioners were appointed in the years 1984 to 1989, which is the case of present applicant-appellants as well. This is so indicated in Annexure P-1 wherein applicants-appellants are reflected to have been appointed between 1984 to 1994 and all of them have indeed been regularised on different dates between the year 1992 to 2004. It is specifically held in decision dated 20.03.2024 as under:-

“5. It is not disputed in the present case that the writ petitioners were appointed during the years 1984 to 1989 and they were regularized on different dates ranging from the years 1992 to 2004. It is apparent that the regularization orders thus were never a subject matter of challenge and neither the same have been placed on record by the appellants-writ petitioners and they were satisfied by the said regularization. Only on account of the fact that 39 persons had got an award in their favour in 1987 which was upheld in 2010, the matter as such was raked up in the year 2011 for the first time whereas others followed suit belatedly till 2015. In such circumstances, the learned Single Judge distinguished the factum of the regularization granted by the Labour Court by rejecting the argument raised on the plea of Article 14 of the Constitution of India on the doctrine of ‘equality’ and it was held that where a benefit was granted illegally or irregularly, the same could not be applied de hors the Acts, Rules, Regulations or policies. Reliance in this regard was placed on the judgment of the Apex Court in **Union of India vs. M.V.Sarkar 2010(2) 2 SCC 59**.

6. We are of the considered opinion that the learned Single Judge did not make any error in any manner while coming to the said conclusion. It is settled principle that in order to get the benefit as such of a writ of mandamus, the writ petitioners had to rely upon a policy, rules, regulations or statutes in order that the writ Court could issue a mandamus. In the absence of any such legal right, the learned Single Judge was well justified in rejecting the case. The Constitution Bench of the Apex Court, as noticed above in State of Karnataka vs. Uma Devi (supra), while considering this aspect had held that only if a statute imposes upon a legal duty on the authority and the party has a legal right under the statute or rule, a mandamus could be issued and in the absence of the same it cannot be issued.

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7. A Constitution Bench of the Apex Court consisting of three Judges in Official Liquidator vs. Dayanand and others 2008(10) SCC 1, noticed that creation and abolition of posts is a matter of Government policy and the Courts cannot take upon themselves the

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power of creation of a post. The appointments being on temporary basis for a fixed period and absorption of all as regular employees in the absence of any legal right as such was accordingly frowned upon. It was further held that inspite of observations made to this effect by the Constitution Bench of the Apex Court, various Single Judges and Benches of the High Court were not following the verdict. Relevant paragraph-70 of the judgment reads as under:-

“70. We are distressed to note that despite several pronouncements on the subject, there is substantial increase in the number of cases involving violation of the basics of judicial discipline. The learned Single Judges and Benches of the High Courts refuse to follow and accept the verdict and law laid down by coordinate and even larger Benches by citing minor difference in the facts as the ground for doing so. Therefore, it has become necessary to reiterate that disrespect to constitutional ethos and breach of discipline have grave impact on the credibility of judicial institution and encourages chance litigation. It must be remembered that predictability and certainty is an important hallmark of judicial jurisprudence developed in this country in last six decades and increase in the frequency of conflicting judgments of the superior judiciary will do incalculable harm to the system inasmuch as the courts at the grass root will not be able to decide as to which of the judgment lay down the correct law and which one should be followed. We may add that in our constitutional set up every citizen is under a duty to abide by the Constitution and respect its ideals and institutions. Those who have been entrusted with the task of administering the system and operating various constituents of the State and who take oath to act in accordance with the Constitution and uphold the same, have to set an example by exhibiting total commitment to the Constitutional ideals. This principle is required to be observed with greater rigour by the members of judicial fraternity who have been bestowed with the power to adjudicate upon important constitutional and legal issues and protect and preserve rights of the individuals and society as a whole. Discipline is sine qua non for effective and efficient functioning of the judicial system. If the Courts command others to act in accordance with the provisions of the Constitution and rule of law, it is not possible to countenance violation of the constitutional principle by those who are required to lay down the law.  
(emphasis supplied)”

Rather it was held in the above judgment cited (supra) that the observations made by the two Judges Bench in U.P. State Electricity Board vs. Pooran Chandra Pandey 2007(11) SCC 92, should be read as obiter and the same should neither be treated as binding by the High Courts, Tribunal and other judicial foras nor they should be relied upon or made basis for bypassing the principle of ‘equal pay for equal work’.”

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7. Perusal of decision dated 20.03.2024 clearly reveals that Division Bench on considering the material on record, facts and circumstances, came to the conclusion that merely because an award was passed in favour of a set of persons, that too in its own peculiar circumstances, whereby workers therein were seeking status of work-charge employees, with the learned Labour Court granting such benefit, present applicants who had filed the writ petitions only after passing of such award, could not be entitled to any relief what-so-ever on this ground.

8. At this juncture it is gainful to refer to order dated 31.01.2023, passed by learned Single Bench, wherein it is specifically recorded in para 2 thereof as under:-

“The learned counsel representing the parties are ad idem that since the issue which arises for adjudication in all the writ petitions is identical, hence, this batch of writ petitions can be disposed of by a common order. Consequently, the facts are being noticed from the **Civil Writ Petition No.6771 of 2015 (Shri Nivas and Others Vs. State of Punjab and Others.**”

9. Learned counsel for present applicants had thus clearly stated before learned Writ Court that issue which arises for adjudication in all writ petitions is identical, therefore, we do not find any merit in the arguments raised before us that the facts of the present matter are different.

10. Having considered the fact that it was specifically represented before learned Writ Court that the issue which arose for adjudication in all the writ petitions was identical, a detailed order dated 20.03.2024 had been passed by Division Bench while deciding the appeal filed by the present applicant-appellants alongwith another connected appeals. In our considered opinion, setting aside order dated 20.03.2024 qua applicant-appellants for the matter to be decided afresh, after affording an opportunity of hearing to them, in the given circumstances would be an exercise in futility. It is also pertinent to note

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at this stage that learned counsel for applicant-appellants in seven of the appeals were very much present at the time of hearing of appeals in question and had duly addressed arguments in matters which were accepted by present applicants to be identical before learned Writ Court.

11. Learned counsel for applicant-appellants is unable to point out any distinguishing factor/issue in so far as present applicant-appellants is concerned, which calls for setting aside of order dated 20.03.2024. Order dated 20.03.2024 is not liable to be reviewed merely on the ground that counsel for the applicant-appellants was not present at the time of hearing, when issues that fell for adjudication are admittedly the same as in connected appeals without any distinction. Such an exercise is necessarily meaningless and futile. In the given factual matrix, no ground for review of decision dated 20.03.2024 is made out.

12. No other argument has been addressed.

13. Keeping in view the facts and circumstances as above, this review application is accordingly dismissed being devoid of any merit

**(LISA GILL)**  
**JUDGE**

**(LAPITA BANERJI)**  
**JUDGE**

**08.04.2025**  
*Sunil*

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