



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

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Date of Decision: 09.10.2025

1. CWP-9455-2014

HARDEV SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

2. CWP-9494-2014

GURPAL SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. R.K. Arora, Advocate with
Mr. Jugam Arora, Advocate,
Mr. Prabhat Kashyap, Advocate and
Mr. J.S. Bhogal, Advocate for the petitioner(s)

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J. (ORAL)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from **CWP-9455-2014**.

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking regularization.

3. The petitioner belongs to Backward Class. He passed middle examination in 1987. He was recruited as Home Guard/Volunteer by respondent on the basis of recruitment trial/test. He was recruited on

18.03.1992 subject to his character verification and medical examination. On the basis of report of character verification and medical examination, he was allowed to join on 06.04.1992. He was subjected to training and thereafter posted at different places. He was holding LTV Driving License and respondent assigned him duty of driver. He worked as Driver from June' 2009 to August' 2014. He thereafter was assigned duty of Gunman of Deputy Battalion Commander. In December' 2012, he participated in the recruitment process of regular Drivers. He could not succeed in the selection process, however, continued to work as Driver/Gunman. At the time of his joining, he was paid salary Rs.40/- per month besides Rs.20/- per month as washing allowance. His salary and washing allowance were revised from time to time. He claimed regularization as per judgment of Hon'ble Supreme Court in '*Secretary, State of Karnataka and Others Versus Uma Devi (3) and Others*', (2006) 4 SCC 1 and policy framed by State Government. He claimed that he has completed 10 years' service by 10.12.2006.

4. Learned counsel representing the petitioner submits that petitioner was entitled to be regularized as per judgment of Hon'ble Supreme Court in *Uma Devi (Supra)* as well as policy framed by State Government. The petitioner has completed requisite number of years, thus, he was eligible for regularization. He had worked continuously without interruption and Court protection. There was no break in his service. His service could not be treated at par with normal Home Guard Volunteer who performed duty, part of the year or part of the month or part of the day. The petitioner performed duty of Driver/Gunman during the entire year. He was discharged in June' 2025 on attaining the age of

58 years. He has worked with respondent without break for three decades, thus, deserves to be regularized.

5. *Per contra*, learned State counsel submits that petitioner was appointed as volunteer in terms of Punjab Home Guards Act, 1947 (for short '1947 Act') read with Punjab Home Guard Rules, 1963 (in short '1963 Rules'). The nature of service of petitioner was volunteer. He could do private job besides service with respondent. He was undoubtedly engaged for whole of the year, however, his appointment was voluntary in nature. As per compendium of instructions of Home Guards published by Director General, Civil Defence, Ministry of Home Affairs, Government of India, New Delhi, the object of recruiting Home Guards is to meet with emergencies like flood, fire and famine. Any person may join Home Guard Service. Even Government employees or students may join as member of Home Guard.

6. I have heard learned counsel for the parties and perused the record with their able assistance.

7. As per reply filed by respondent, genesis of Home Guards and its role is as below:-

"The Compendium of Instructions of Home Guards published by Directorate General Civil Defence, Ministry of Home Affairs, Government of India, New Delhi, mentions the Genesis of Home Guard Organisation as below:-

1.1. Genesis

During World War-II, 'Home Guards'- a voluntary citizen organisation for local defence was raised in the United Kingdom. In India, in 6th December 1946, Home Guards were raised in Bombay to assist the police in controlling Civil disturbances

and communal riots. Subsequently, this concept of a voluntary citizen's force as auxiliary to the Police for maintenance of law and order and for meeting emergencies like floods, fires, famines etc. was adopted by several other States such as Paranti Raksha Dal, West Bengal Village block and Civic Guards. In the wake of Chinese Aggression in 1962, the Centre advised the States and Union Territories to merge their existing voluntary organizations into one all - India force known as 'Home Guards' which would be voluntary both in concept and character.

1.2 Role

The following revised roles are assigned to the Home Guards. These instructions have been reiterated from time to time:

(a) Serve as an auxiliary to the police and assist in maintaining internal security.

(b) Assist the community in any kind of emergency an air raid, a fire, a flood, an epidemic and so on.

(c) Organize functional units to provide essential services such as motor transport, pioneer and engineer groups, fire brigades, nursing and first-aid, operation of water and power supply in installations etc.

(d) Promote communal harmony and give assistance to the administration in protecting weaker sections of the

(e) Society. Participate in socio-economic and welfare activities such as adult education, health and hygiene, development schemes and such other tasks as are deemed useful."

8. A two Judge Bench of Apex Court in '**Union of India v. Ilmo Devi**', (2021) 20 SCC 290 considered question of regularization of

part time employees of Union of India. The Apex Court while setting aside judgment of this Court has held that High Court in exercise of its writ jurisdiction cannot ask State to regularize part time employees. The Court has further held that part time employees cannot claim pay parity with regular employees. The Court has noticed judgment of this Court in Para 3.4 and returned findings in Para 16-19 which are reproduced as below:

“3.4. By the impugned common judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144], the High Court has disposed of the aforesaid writ petitions with the following directions : (Ilmo Devi case [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] , SCC OnLine P&H paras 22-23)

“22. We, thus, direct the petitioner authorities to revisit the whole issue in its right perspective and complete the exercise to reformulate their policy and take a decision to sanction the posts in phased manner within a specified time schedule. Let such a decision be taken within a period of six months from the date of receiving a certified copy of this order.

23. Till the exercise as directed above, is undertaken, the respondents shall continue in service with their current status but those of them who have completed 20 years as part-time daily wagers, shall be granted “minimum” basic pay of Group “D” post(s) w.e.f. 1-4-2015 and/or the date of completion of 20 years contractual service, whichever is later.”

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16. Thus, as per the law laid down by this

Court in the aforesaid decisions part-time employees are not entitled to seek regularisation as they are not working against any sanctioned post and there cannot be any permanent continuance of part-time temporary employees as held. Part-time temporary employees in a Government run institution cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work.

17. Applying the law laid down by this Court in the aforesaid decisions, the directions issued by the High Court in the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144], more particularly, directions in paras 22 and 23 are unsustainable and beyond the power of the judicial review of the High Court in exercise of the power under Article 226 of the Constitution. Even otherwise, it is required to be noted that in the present case, the Union of India/Department subsequently came out with a regularisation policy dated 30-6-2014, which is absolutely in consonance with the law laid down by this Court in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1], which does not apply to the part-time workers who do not work on the sanctioned post. As per the settled preposition of law, the regularisation can be only as per the regularisation policy declared by the State/Government and nobody can claim the regularisation as a matter of right dehors the regularisation policy. Therefore, in absence of any sanctioned post and considering the fact that the respondents were serving as a contingent paid part-time Safai Karamcharies, even otherwise, they were not entitled for the benefit of regularisation under the regularisation policy dated 30-6-2014.

18. Though, we are of the opinion that even

the direction contained in para 23 for granting minimum basic pay of Group 'D' posts from a particular date to those, who have completed 20 years of part-time daily wage service also is unsustainable as the part-time wagers, who are working for four to five hours a day and cannot claim the parity with other Group 'D' posts. However, in view of the order passed by this Court dated 22-7-2016 [Union of India v. Ilmo Devi, 2016 SCC OnLine SC 1933] while issuing notice in the present appeals, we are not quashing and setting aside the directions contained in para 23 in the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] so far as the respondents' employees are concerned.

19. In view of the above and for the reasons stated above, both the appeals succeed. The impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] passed by the High Court and, more particularly, the directions contained in paras 22 and 23 in the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] are hereby quashed and set aside. However, it is observed that quashing and setting aside the directions issued in terms of para 23 in the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] shall not affect the case of the respondents and they shall be entitled to the reliefs as per para 23 of the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] passed by the High Court."

9. A two Judge bench of Supreme Court in '**Nihal Singh v. State of Punjab**', (2013) 14 SCC 65 had the occasion to consider question of regularization of Special Police Officers (SPOs) appointed

under Section 17 of Police Act, 1861. A Division Bench of this Court relying upon an earlier judgment of this court dismissed petitions of 20 SPOs and matter travelled to Apex Court which turned down claim of the respondent-State of Punjab that there are no sanctioned posts to absorb appellants despite their service of decades. The Court held that State cannot take undue advantage of judgment of Supreme Court in *Uma Devi's case (supra)*. The said judgment cannot become licence for exploitation by the State. After availing services for decades, it is not justified for the State to take a defence that there are no sanctioned posts to absorb the appellants.

10. In '*Narendra Kumar Tiwari v. State of Jharkhand and others*', (2018) 8 SCC 238, the Apex Court dealt with denial of regularization and held that State of Jharkhand has continued with irregular appointments for almost a decade after decision in *Uma Devi's case (supra)* and it was nothing but exploitation of the employees by not giving them their benefits. Resultantly, it was held that if they had completed 10 years of service, they were to be regularized unless there is valid objection to their regularization. Resultantly, the order of the High Court was set aside which had itself placed reliance upon *Uma Devi (supra)*.

11. In "*State of Karnataka Vs. M.L. Kesari*" (2010) 9 SCC 247, the Supreme Court noticed misuse by the State and its agencies, non-compliance of order of the Apex Court and denying benefits to the employees. The Court noticed that the object as such was two folds. Firstly, those persons who had put in more than 10 years of services were to be considered for regularization in view of the long service. Secondly,

it was to ensure that departments do not perpetuate the practice of employing persons on daily wage, adhoc or casual basis. It was held that persons who had worked for more than 10 years on 10.04.2006 were entitled for regularization and necessary directions were issued in the said case and those not entitled because of lack of educational qualifications were to be regularized on a lower post.

12. Supreme Court recently in '**Jaggo v. Union of India and others**', 2024 SCC OnLine SC 3826, noticing judgment of Constitutional Bench in **Uma Devi (supra)** has held that no employee can be kept temporary for an indefinite period. An employee has right to be considered for regularization. The relevant extracts of the judgment read as:

“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 judgment of this Court in Vinod Kumar v. Union of India [(2024) 1 SCR 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 judgment 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 judgment 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...”

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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.*

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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 long-term 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 labelled 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.

- *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.”*

13. The respondent is relying upon judgment of Hon’ble

Supreme Court in '*Grah Rakshak, Home Guards Welfare Association Versus State of H.P. and Others*', 2015 (6) SCC 247. As per respondent, the Supreme Court in *Grah Rakshak (supra)* has held that members of Home Guard cannot claim regularization because of their nature of job. Relevant extract of the judgment are reproduced as below:-

"21. It is not the case of the State Government that enrollment/appointments of the Home Guards were backdoor engagement and illegal made in violation of Articles 14 and 16 of the Constitution of India. Therefore, the decision of this Court in Umadevi (3) is not applicable in the case of the appellants-Home Guards. Admittedly, there is no concept of wages. These volunteers are paid duty allowance and other allowances to which they are entitled. There is nothing on the record to suggest that they performed duties through out the year.

On the other hand, it is the specific case of the State that as and when there is requirement they were called for duty and otherwise they remained in their homes. Therefore, in absence of any details about continuity of service, month to month basis or year to year basis, the duties and responsibilities performed by them through out the year can neither be equated with that of police personnel.

22. In view of the discussion made above, no relief can be granted to the appellants either regularization of services or grant of regular appointments hence no interference is called for against the judgments passed by the Himachal Pradesh, Punjab and Delhi High Courts. However, taking into consideration the fact that Home Guards are used during the emergency and for other purposes and at the time of their duty they are empowered with the power of police personnel, we are of the view that the State Government should pay them the duty allowance at such rates, total of which 30 days (a month comes to minimum of the pay to which the police personnel of State

are entitled. It is expected that the State Governments shall pass appropriate orders in terms of aforesaid observation on an early date preferably within three months.”

[Emphasis supplied]

14. Hon’ble Supreme Court in **“Union of India Vs. K. Velajagan And Ors.”**, 2025 SCC OnLine SC 837 decided on 04.02.2025 has observed that decision in **Uma Devi (supra)** cannot be used as a shield to justify exploitative engagements persisting for years without the employer undertaking legitimate recruitment process to deny relief of regularization.

15. In the case in hand, the petitioner joined Punjab Home Guards on 06.04.1992. He worked as Driver/Gunman from 1992 to 2025. He worked without interruption. There was no break in his service. There was no interim order of any Court in his favour. It means the petitioner worked with respondent for more than three decades without interruption. The respondent was satisfied with his services. He was working as Driver/Gunman, thus, it was not practically possible to do any other job. He was performing duties as full-time employee. He was paid salary as per judgment of Supreme Court in **Grah Rakshak (supra)**. The respondent is not disputing the fact that they have framed policies with respect to regularization of Class III and IV employees. The respondent is denying benefit of regularization on the sole ground that petitioner was a volunteer and as per judgment of Supreme Court in **Grah Rakshak (supra)**, a volunteer cannot claim regularization.

16. Hon’ble Supreme Court in **Grah Rakshak (supra)** denied benefit of regularization on the ground that members of Home Guard are

paid duty allowance and other allowances. There was nothing on record to suggest that they performed duties throughout the year. Stand of the State before Supreme Court was that members of Home Guard were engaged as and when there was requirement and otherwise they remained in their homes.

17. The findings recorded by Supreme Court in para 21 of the judgment in ***Grah Rakshak (supra)*** support case of the petitioner. State herein is not claiming that petitioner was called as and when there was requirement. State is not claiming that petitioner did not work throughout the year. The petitioner has candidly claimed that he uninterruptedly worked with respondent for more than three decades. It is apt to notice here that petitioner superannuated in June' 2025 and writ petition was filed in 2014. The petitioner continued to work during the pendency of instant petition though there was no stay in his favour. At the cost of repetition, it is hereby noticed that petitioner worked with respondent from 1994 to 2025 continuously and without Court's intervention. This peculiar feature makes his case entirely different from case/facts considered by Supreme Court in ***Grah Rakshak (supra)***. The respondent cannot deny benefit of regularization on the sole ground that as per judgment of Supreme Court in ***Grah Rakshak (supra)***, members of Home Guard cannot be regularized.

18. The second limb of argument of respondent to deny benefit of regularization is nature of job contemplated by compendium of instructions issued by Ministry of Home Affairs. As per instructions of Home Department as well as arguments of respondent, a student/businessman and even a Government employee may be member of Home

Guards because it is voluntary contribution of citizens of the country. It is in form of service. It is not a job entailing remuneration. It is service entailing honorarium. The respondent is trying to misinterpret as well as misuse concept visualized by compendium of instructions issued by Home Department as well as 1947 Act read with Rules made thereunder. Intention of all the statutory provisions and instructions is to engage volunteer for a particular period. U.T. Chandigarh has issued Standing Order dated 14.01.2021 wherein it is contemplated that tenure of member of Home Guard would be three years which may be extended up to five years. The relevant extract of Standing Order reads as:-

“Tenure of Enrolment:-

The Home Guards Volunteers will initially be enrolled for a period of 3 years which can be extended for another two years on merits. Thus, the maximum period for which Home Guards should be retained will be 3 to 5 years and they must be turned over to allow to fresh intake for keeping the voluntary character of the organization young and vibrant. However, commandant General Home Guards is competent to grant further extension to those volunteers whose work and conduct, record and performance are found satisfactory.”

19. It is apt to understand here voluntary nature of any job/work. If a person comes forward to render his service without consideration, it is called as voluntary service. Intention of the service provider is to serve recipient without consideration. There is no *quid pro quo*. In a country where there is scarcity of job and poverty is writ large, it cannot be assumed that a man would work for decades for the entire day as a volunteer. The petitioner was getting salary which was equal to minimum of pay scale of a Constable. He was also getting dearness allowance apart

from other allowances like washing allowance. The appointment of petitioner was not a backdoor entry. There was trial, medical examination and character verification. All these facts collectively prove that petitioner worked for remuneration which was titled as honorarium. He had worked as a normal employee though was called as volunteer. It would be unjustified and unfair if Class IV or III employees of all other departments are regularized on the basis of service of more than ten years but members of Home Guard are denied said benefit on the ground that they are volunteers. A member who is working for part of the day or part of the month or part of the year and doing some other job for his livelihood may be called as volunteer, however, a man who is working entire day and without interruption for three decades cannot be called as volunteer. The respondent is exploiting citizens of the country in the name of volunteers. Case of petitioners is squarely covered by judgments of Supreme Court in *Jaggo (supra)* and '*Dharam Singh and Ors. Vs. State of U.P. and Anr.*' 2025 SCC OnLine SC 1735.

20. Learned State counsel pointed out that Hardev Singh (petitioner in *CWP-9455-2014*) stands discharged on attaining the age of 58 years, thus, cannot be regularized at this stage. He was paid minimum of pay scale of Constable along with dearness and other allowances during his service. Gurpal Singh (petitioner in *CWP-9494-2014*) is still in service. He is performing duties of Clerk since 2000. He was recruited in 1993 and would attain age of 58 years in 2030.

21. Faced with this, learned counsel for the petitioner submits that Hardev Singh may be granted lump sum amount because he was not paid either gratuity or leave encashment or pension because of non-

regularization, though, he approached this Court in 2014

22. The Court finds substance in the prayer of Hardev Singh. Accordingly, respondent is directed to pay lump sum amount of Rs.5,00,000/- to Hardev Singh.

23. Gurpal Singh is still in service. He is entitled to be regularized. Accordingly, respondent is hereby directed to regularize him. An appropriate order of regularization shall be passed within six months and in case respondent fails to pass said order, Gurpal Singh shall be deemed to be regularized on the expiry of said period.

24. Before parting with the judgment, I would hasten to add that aforesaid order may give impetus to many similarly situated employees to file petitions before this Court. To avoid multiplicity of petitions, this Court finds it appropriate to ask respondent-State to frame policy with respect to regularization of members of Home Guard who without interruption are working full time for decades and not doing any other private job.

25. *Allowed* in above terms.

26. Pending application(s), if any, also stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

09.10.2025
Deepak DPA

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No