



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

1667

CWP-10172-2004 (O&M)
Date of decision: 28.02.2025

Sukhwinder Singh

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Satbir Rathore, Advocate and
Mr. Sushil Bhardwaj, Advocate for the petitioner.

Mr. Satnam Preet Singh, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for directing the respondents to regularize the petitioner as Beldar.
2. The petitioner was engaged on 26.06.1989 as Beldar whereafter his services were terminated, however, the Labour Court on an industrial dispute, raised by him, ordered his reinstatement with continuity of service and full back wages vide Award dated 04.01.2002 (Annexure P2), whereafter, he was paid arrears of salary as has been stated in para 8 of the petition. He claimed the regularisation of service in terms of Instructions dated 23.01.2001 (Annexure P6) relating to work charged/daily wages and other category of workers who have completed 3 years of service. A specific reference in para 11 of the petition has been made to Kishori Lal, Jagan Nath, Gurmail Singh and Om Lal etc. who were also working as Peon/Beldar and performing the similar duties as the petitioner were being paid in the scale of Rs.5700-5800 whereas

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salary of petitioner was almost half i.e. Rs.2500/- and he is still in service. In this regard, reference is made to the judgment in the case of **Jaggo vs. Union of India and others**, 2024 SCC Online SC 3826, relevant paras of which read thus:-

“12. Despite being labelled as "part-time workers," the appellants performed these essential tasks on a daily and continuous basis over extensive periods, ranging from over a decade to nearly two decades. Their engagement was not sporadic or temporary in nature; instead, it was recurrent, regular, and akin to the responsibilities typically associated with sanctioned posts. Moreover, the respondents did not engage any other personnel for these tasks during the appellants' tenure, underscoring the indispensable nature of their work.

13. The claim by the respondents that these were not regular posts lacks merit, as the nature of the work performed by the appellants was perennial and fundamental to the functioning of the offices. The recurring nature of these duties necessitates their classification as regular posts, irrespective of how their initial engagements were labelled. It is also noteworthy that subsequent outsourcing of these same tasks to private agencies after the appellants' termination demonstrates the inherent need for these services. This act of outsourcing, which effectively replaced one set of workers with another, further underscores that the work in question was neither temporary nor occasional.

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21. The High Court placed undue emphasis on the initial label of the appellants' engagements and the outsourcing decision taken after their dismissal. Courts must look beyond the surface labels and consider the realities of employment: continuous, long-term service, indispensable duties, and absence of any mala fide or illegalities in their appointments. In that light, refusing regularization simply because their original terms did not explicitly state so, or because an outsourcing policy was belatedly introduced, would be contrary to principles of fairness and equity.

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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

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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.”

3. Reliance is also placed on the judgment passed in the case of **Sri Anandu and another vs. The Principal Secretary Government of Karnataka and others**, Writ Petition No.100556 of 2024 (S-RES), decided on 20.02.2025, relevant extract whereof reads thus:-

“On a coalesce of the judgments rendered by the Apex Court in the afore-quoted cases, which were in the aftermath of the judgment in the case of UMADEVI (3) supra, would in unmistakable terms indicate that regularization of employees is not a concept that is obliterated, but could be considered on several parameters laid down in the said judgments. One unmistakable stream that runs through judicial thinking of judgments of the Court is that, regularization of the services of the employees engaged to work for the State for long years should be considered, failing which, it would amount to violation of Article 14 of the Constitution of India.

20. Therefore, on a blend of the judgments rendered by the Apex Court as afore-quoted, what would unequivocally unmistakably emerge is, the State practising exploitation of human labour, should by judicial orders be curbed. The Apex Court terms the engagements made in those cases, as exploitative engagements. In the case at hand even, I deem it appropriate to observe that the petitioners have in their prime youth worked for the services of the State, as daily wagers. They are continued to be in that position even today, with certain benefits conferred from time to time. They are in the last leg of their services. If their services are not directed to be regularised today, it would be putting a premium on the act of the State, exploiting human labour, as these petitioners, if left in the lurch will have to wander for their livelihood after having served the State for 39 years and 32 years respectively.

21. In the light of such exploitation which has to be stopped and stopped forthwith, the subject case becomes a classic illustration where mandamus is required to be issued, not for considering the cases of the petitioners, but to regularise their services, as any direction, if issued only to consider the cases of the petitioners, it will generate another round of litigation, as the State would get a hand, to handle against the petitioners. Therefore, positive mandamus ensues in the case at hand only to save the petitioners from the brunt of another litigation.”

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4. The premise in the written statement is that the petitioner was never worked against the sanctioned post.

5. The aforesaid facts having been brought out, during the course of hearing, learned State counsel, on instructions, states that the respondents shall consider and decide the claim of the petitioner, taking note of the aforesaid judgments, within a period of 4 months, which this Court has no reason to believe the authorities would not address in a just, fair and reasonable manner.

6. The aforesaid satisfies the learned counsel for the petitioner.

7. The matter stands disposed of accordingly and if the petitioner is found entitled, grant the benefit forthwith. Needless to say, if the orders are adverse to his interest, the same may be passed after granting opportunity of hearing to him and shall contain reasons, whereupon he shall be free to seek legal redress thereupon.

(AMAN CHAUDHARY)
JUDGE

28.02.2025
ashok

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