



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

CWP-21660-2023 (O&M)
Reserved on: 29.08.2025
Pronounced on: 10.09.2025

Pankaj Kumar Sharma and others
.....Petitioners
Versus
State of Punjab and others
.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.K. Arora, Advocate
with Mr. Jugam Arora, Advocate
for the petitioners.

Mr. T.P.S. Walia, AAG, Punjab.

Mr. K.D.S. Sidhu, Advocate
for respondent No.3.

HARPREET SINGH BRAR J. (Oral)

1. The present civil writ petition is preferred under Articles 226 and 227 of the Constitution of India for the issuance of the following writs, orders, and directions:

(A) A Writ of Certiorari for quashing the impugned Order dated 26.04.2022, issued vide Endst. No. 5/110/2016-4LG4/9001181/1 dated 05.05.2022 (Annexure P-15) issued by Respondent No. 2, whereby the claim of the petitioners for regularization of their services on the posts of Fireman in view of Resolution No.87/2 dated 04.01.2017 (Annexure P-3) passed by respondent No.3 has been declined in a totally illegal, arbitrary, *mala fide*, and discriminatory



manner, as similarly situated employees have already been regularized in other Municipal Councils/Corporations and various departments of the State on the basis of the same instructions/The Punjab Ad hoc, Contractual, Daily Wage, Temporary, Work-charged and Outsourced Employees Welfare Act, 2016 (Annexure P-2);

(B) A Writ of Mandamus directing the respondents to consider and grant the petitioners regularization on the posts of Firemen in view of the Resolution No.87/2 dated 04.01.2017 (Annexure P-3) passed by respondent No. 3 – Municipal Council, Rajpura, which was accepted by respondent No. 2 without any objection and to grant the petitioners regularization from the said date with all consequential benefits, including arrears of salary, seniority, and all other service benefits, together with interest as admissible to the regular counterparts along with grade pay and dearness allowance from the date of their regularization.

2. Briefly, the facts of the case are that the petitioners were appointed as Firemen on a contract basis by the Municipal Council, Rajpura, vide order No.5622 dated 13.09.2013 (Annexure P-1), after a proper selection process. The Punjab Government enacted the Punjab Ad hoc, Contractual, Daily Wage, Temporary, Work-charged and Outsourced Employees Welfare Act, 2016 (hereafter 2016 Act) on



24.12.2016 (Annexure P-2) mandating the regularization of employees who had completed three years of continuous service and met certain conditions (age, qualifications, clean record). Following government directions, the Municipal Council, Rajpura, passed Resolution No.87/2 dated 04.01.2017 (Annexure P-3), resolving to regularize the petitioners as they fulfilled the Act's conditions. This resolution was approved by the Director, Local Government, Punjab, vide memo No.ES-4-DLG (Rajpura-205)-2017/11051 dated 08.03.2017 (Annexure P-4). Despite the resolution and approval, the Executive Officer of the Municipal Council did not issue regularization orders. Meanwhile, other departments and Municipal Corporations (like Bathinda, Water Supply, PUNGRAIN) regularized their similarly situated employees under the same 2016 Act. The petitioners sent a legal notice (12.11.2021) which was ignored. Vide CWP No. 688 of 2022. The High Court directed the government to decide their legal notice within 4 months. In compliance with the court's order, the Respondent No. 2 passed the order dated 05.05.2022, rejecting the petitioners' claim stating that the 2016 Act was under challenge in other court cases, and the case of employees in Bathinda was distinguishable.

3. Learned counsel for the petitioners, *inter alia*, contends that the employees in identical situations in other departments and municipalities (Bathinda, Water Supply, PUNGRAIN) have been regularized under the same 2016 Act and government instructions. Further, the reasons given in the impugned order are invalid, the mere



fact that the 2016 Act is challenged in CWP No.4187 of 2017, is not a valid ground for denial, especially since no stay order was ever granted against the Act's implementation. Other departments regularized employees despite this pending challenge. Moreover, the Bathinda employees were regularized based on the same Act and their resolution was implemented by the state and thus their case is not indistinguishable as claimed by the respondents. Learned counsel for the petitioners further submits that the State's action violates the principle that a benefit granted to one set of similarly situated employees must be extended to all others without forcing each individual to approach the Court.

4. Learned State counsel as well as learned counsel for respondent No.3 submits that the case of the petitioner is different and distinguishable from the case of regularization by Municipal Council of Bathinda and further the 2016 Act was withdrawn as informed on 16.08.2018 during the pendency of CWP 4187 of 2017.

5. Further learned counsel for respondent No.3 submits that services of petitioner No.1 has been terminated on account of registration of FIR against him. The order of termination has been challenged in CWP No.22115 of 2025 which is pending before this Court.

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

7. Recently, a Two-Judge Bench of the Hon'ble Supreme Court in ***Dharam Singh and Others v. State of U.P. and Another 2025***



SCC OnLine SC 1735 speaking through Justice Vikram Nath has held as follows:

“11. Furthermore, it must be clarified that the reliance placed by the High Court on Umadevi (Supra) to non-suit the appellants is misplaced. Unlike Umadevi (Supra), the challenge before us is not an invitation to bypass the constitutional scheme of public employment. It is a challenge to the State's arbitrary refusals to sanction posts despite the employer's own acknowledgement of need and decades of continuous reliance on the very workforce. On the other hand, Umadevi (Supra) draws a distinction between illegal appointments and irregular engagements and does not endorse the perpetuation of precarious employment where the work itself is permanent and the State has failed, for years, to put its house in order. Recent decisions of this Court in Jaggo v. Union of India and in Shripal v. Nagar Nigam, Ghaziabad have emphatically cautioned that Umadevi (Supra) cannot be deployed as a shield to justify exploitation through long-term “ad hocism”, the use of outsourcing as a proxy, or the denial of basic parity where identical duties are exacted over extended periods. The principles articulated therein apply with full force to the present case....

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13. As we have observed in both Jaggo (Supra) and Shripal (Supra), outsourcing cannot become a convenient shield to perpetuate precariousness and to sidestep fair engagement practices where the work is inherently perennial. The Commission's further contention that the appellants are not “full-time” employees but continue only by virtue of interim orders also does not advance



their case. That interim protection was granted precisely because of the long history of engagement and the pendency of the challenge to the State's refusals. It neither creates rights that did not exist nor erases entitlements that may arise upon a proper adjudication of the legality of those refusals.

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17. Before concluding, we think it necessary to recall that the State (here referring to both the Union and the State governments) is not a mere market participant but a constitutional employer. It cannot balance budgets on the backs of those who perform the most basic and recurring public functions. Where work recurs day after day and year after year, the establishment must reflect that reality in its sanctioned strength and engagement practices. The long-term extraction of regular labour under temporary labels corrodes confidence in public administration and of ends the promise of equal protection. Financial stringency certainly has a place in public policy, but it is not a talisman that overrides fairness, reason and the duty to organise work on lawful lines.

18. Moreover, it must necessarily be noted that “ad-hocism” thrives where administration is opaque. The State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious engagement over sanctioned posts where the work is perennial. If “constraint” is invoked, the record should show what alternatives were considered, why similarly placed workers were treated differently, and how the chosen course aligns with Articles 14, 16 and 21 of the Constitution of India. Sensitivity to the human



consequences of prolonged insecurity is not sentimentality. It is a constitutional discipline that should inform every decision affecting those who keep public offices running.”
(Emphasis supplied)

8. Further reliance may be placed on another Two Judge Bench of the Hon’ble Supreme Court in ***Jaggo vs. Union of India 2024 INSC 1034***, which made the following observation,

*“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.”* (emphasis added)

9. This Court has been constrained to observe a trend where long term employees are engaged on *ad hoc* basis, in spite of the perennial nature of the services rendered by them. The State, being a constitutional employer, cannot be allowed to exploit its temporary employees when they have been consistently serving its instrumentality



for a significant time period. Such an approach would be violative of fundamental rights of the temporary employees enshrined in Article 14, 16 and 21 of the Constitution of India. Reliance in this regard can be placed on the judgements rendered by the Hon'ble Supreme Court in ***Vinod Kumar and others v. Union of India (2024) 1 SCR 1230 and Shripal & Anr. v. Nagar Nigam, Ghaziabad 2025 SCC OnLine SC 221.***

10. The legal landscape on this issue has been crystallized by the Hon'ble Supreme Court and this court that the practice of keeping employees on a continuous contractual basis for years to perform work of a perennial nature, while denying them the benefits of permanent service, amounts to an "unfair labour practice". The principle that "a person cannot be kept on probation for an indefinite period" is well-settled. The culture of "ad-hocism" and the exploitation of long-term temporary employees must be condemned.

11. This Court is constrained to observe that the respondents' action is a classic example of the very trend denounced by the Constitutional Courts. The State, as a model employer, cannot be permitted to exploit a workforce for a decade and then deny them the security of regularization on flimsy grounds. The petitioners were appointed on 13.09.2013 on contract basis and since then, they are discharging their duties as a contractual employee for more than a decade without being regularised.



12. In light of the foregoing discussions, the present petition is hereby allowed. The respondents are directed to regularize the petitioners, within a period of six weeks from the date of receipt of the certified copy of this order. In the event of non-compliance, the petitioners shall be deemed to have been regularized upon the expiry of the said period of six weeks. The petitioners shall also be entitled to counting of their past services and other benefits as per judgments of this Court in *Harbans Lal v. State of Punjab, CWP No.2371 of 2010* and *State of Haryana and others v. Jai Bhagwan, LPA No.1892 of 2019*.

13. Before parting with this order, it is clarified that the case of petitioner No.1, Pankaj Kumar Sharma, shall be considered subject to the final outcome of CWP No.22115 of 2025, wherein he has challenged the termination order. Until the termination order of petitioner No.1 is set-aside, his claim for regularization may not be enforceable.

14. Pending miscellaneous application, if any, also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

10.09.2025
yakub

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