

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

(1) CWP No. 11513 of 2014 (O&M)
Date of Decision: 01.11.2018.

Lalit Kumar and another ... Petitioners
Versus

The Punjab State Sports Council and others
... Respondents

(2) CWP No. 11589 of 2014 (O&M)

Satpal and others ... Petitioners
Versus

The Punjab State Sports Council and others
... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present: Mr. M.K. Bhandari, Advocate,
for the petitioners (in both cases).

Ms. Bhawna Gupta, DAG Punjab.

Mr. Gitish Bhardwaj, Advocate,
for respondent Nos.1 & 3 (in both cases).

JITENDRA CHAUHAN.J.

This judgment shall dispose of aforementioned two
civil writ petitions as common questions of facts and law are involved
therein.

The facts are being taken from C.W.P. No. 11513 of
2014. The petitioners were engaged on daily wages basis in Punjab
State Sports Council which is under direct control of the State of
Punjab and the Chairman of the Punjab Sports Council is the Director,
Sports Punjab. The petitioners were initially engaged as Chowkidar

cum Sweepers on 25.07.1991 and were entitled to be regularised in the light of instructions dated 18.01.1995 (Annexure P-1) as they had rendered service of more than 240 days. However, the petitioners were not regularised and thereafter even as per the instructions dated 23.01.2001 (Annexure P-4) the employees who had completed three years' of service were eligible for being regularised. However, no orders for regularization were passed. Thereafter, yet another instructions dated 15.12.2006 were issued vide which it was directed that those employees who had rendered 10 years' of service would be entitled to be regularised. In the light of instructions, respondent No.3 recommended the cases of the petitioners for regularization vide letters 14.03.2007 (Annexure P-8) and 08.10.2007 (Annexure P-9) however, no orders of regularization were passed. The above instructions were thereafter followed by instructions dated 18.03.2011 (Annexure P-12) by which it was decided to regularize the services of those daily wagers who had rendered service of three years on the date of issuance of instructions. The petitioners had rendered service of almost 20 years on the date of issuance of instructions. The aforesaid instructions were followed by another instructions dated 17.11.2011 (Annexure P-14) in which specific directions were issued to the Boards/Corporations/Commissions/Cooperative Societies to the effect that in the light of instructions dated 18.03.2011, the daily wage/work charge and contractual employees who fulfill the conditions laid down by the Personnel Department, their services were to be regularised. The

case of the petitioners fell within the four corners of the instructions dated 18.03.2011 and 17.11.2011. However, vide impugned order dated 18.02.2014 (Annexure P-18) the claim of the petitioners had been declined.

On the other hand, the stand of the respondents is that as per the instructions of regularization of service dated 18.01.1995 (Annexure P-1) only those employees were to be regularised who were working on daily wages against regular posts. However, the petitioners were not working against any regular post and their employment was made by the District Olympic Association for cleanliness of the stadium on daily wage basis. As per instructions dated 23.01.2001 (Annexure P-4) and 15.12.2006 (Annexure P-7) only those employees were to be regularised who have completed service of 10 years against a regular post and those instructions are not applicable to the case of the petitioners because they had been working on daily wage basis. Even as per the instructions dated 18.03.2011 (Annexure P-14) the employee is required to be working against a regular post for the last three years. The case of the petitioners is not covered under any of the instructions.

Heard.

Admittedly, the petitioners had rendered service of almost 20 years on the date of issuance of instructions. The case of the petitioners has been rejected on the ground that they were working as daily wagers against the regular posts. The stand taken by the

respondents is liable to be rejected for the reason that the fact that the petitioners have been working on the post for the last 20 years itself goes to show that there is work to be done on regular basis which cannot be executed without there being regular post as well. The respondents have chosen not to create regular post so that they may take services of employees at meagre wages. Such approach of the State being exploitative is liable to be deprecated. If there is need of regular post, the State ought to have created the same. However, the same has not been done for the reasons best known to it.

In view of above, both the civil writ petitions are allowed. The respondents are directed to regularize the services of the petitioners in view of the relevant instructions after treating them as daily wagers with the State. Let the exercise be carried out within a period of two months from the date of receipt of certified copy of the judgment and any arrears of pay etc. admissible to the petitioners consequent to regularization be released to them limited to a period of 38 months prior to the filing of these writ petitions as has been held by a Division Bench of this Court in *Krishan Kumar Sharma and others vs. State of Punjab and another 2013 (16) SLT 890.*

A photocopy of this order be placed in the file of other connected case(s).

01.11.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No