

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 24.04.2018****CWP No.13675 of 2015**

Ram Kishan

...Petitioner

Vs.

Dakshin Haryana Bijli Vitran Nigam Ltd. & others

...Respondents

CWP No.13684 of 2015

Ramesh

...Petitioner

Vs.

Dakshin Haryana Bijli Vitran Nigam Ltd. & others

...Respondents

CWP No.13700 of 2015

Surinder

...Petitioner

Vs.

Dakshin Haryana Bijli Vitran Nigam Ltd. & others

...Respondents

CWP No.14010 of 2015

Pala Ram

...Petitioner

Vs.

Dakshin Haryana Bijli Vitran Nigam Ltd. & others

...Respondents

CWP No.14025 of 2015

Roshan Lal

...Petitioner

Vs.

Dakshin Haryana Bijli Vitran Nigam Ltd. & others

...Respondents

CWP No.411 of 2018

Samundar Singh & another

...Petitioners

Vs.

Haryana Vidyut Prasaran Nigam Ltd. & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. J.K.Goel, Advocate, for the petitioners
in all the cases except CWP No.411 of 2018.

Mr. Manoj Chahal, Advocate, for the petitioners
in CWP No.411 of 2018.

Mr. Hitesh Pandit, Advocate, for the respondents
in CWP No.411 of 2018.

Mr. D.S.Nalwa, Advocate, for the respondents
in CWP Nos.13684 of 2015 and 13700 of 2015.

Ms. Bhupinder Kaur, Advocate, for the respondents
in CWP No.14010 of 2015.

Mr. Abhay Gupta, Advocate, for
Mr. Amar Vivek, Advocate, for the respondents
in CWP Nos.13675 of 2015 & 14025 of 2015.

RAJIV NARAIN RAINA, J. (ORAL)

This order will dispose of the aforementioned writ petitions, as
the cause they espouse and the factual and legal issue involved is common

and identical and, therefore, they can be conveniently decided by a single order.

Having heard learned counsel for the parties at considerable length, I cannot see my way to distinguish the judgments in CWP No.2326 of 2011 (O&M) titled 'Chhabi Lal & others Vs. The State of Haryana & others' decided on 20.05.2015 and CWP No.29171 of 2017 (O&M) titled 'Rajender Kumar & others Vs. The State of Haryana & others' and other connected cases, decided on 17.04.2018, wherein identical relief has been granted to the petitioning workmen, who have served for decades. Their services have been ordered to be regularized.

However, per contra Mr. Nalwa relies on a recent judgment of the Supreme Court in Upendra Singh Vs. State of Bihar & others, 2018 (2) SCT 281 to contend that the petitioners cannot be regularized in service because the initial appointments of the petitioners were not in accordance with law and were made without advertisement calling name from eligible candidates. There were no recommendations by a Selection Committee. The appointment on daily-wages to a Grade-III post was illegal.

In the present case, labourers are involved for which there may be no competitive selection. A daily-wage worker is not a person, who holds a public post, but the right to permanence accrues because of long length of service, which is uninterrupted and continuous which gives rise to a presumption that there is regular need for the post. It is not the pleaded case of the respondents – Nigam that any action was taken against officers in the Nigam who had appointed the petitioners decades ago. No material has been shown to suggest that the appointments were illegal to bring the case within

the ratio of Secretary, State of Karnataka & others Vs. Umadevi & others, (2006) 4 SCC 1 [CB].

The decision in *Chhabi Lal*'s case was not dependent on policy and the favourable directions came in the case of similarly situated persons working for the same Nigam who stand regularized in service. It is, therefore, imperative for this Court to apply the principle of parity of treatment to all who fall within the same class and category of persons. This is the mandate of equal protection in Article 14 of the Constitution.

In the matter of daily-wage workers, it would be inappropriate to use the word 'appointment' as in direct recruitment through open competition. These are just engagements to perform work required to give effect to schemes of the Government. Even in *Umadevi*'s case in the opening paragraph, the Supreme Court had prefaced the judgment observing that it is within the jurisdiction of the State Governments and employers to engage persons on daily wage basis to tide over the exigencies of public works for the welfare of the State.

For the reasons recorded above, all the petitions are allowed. Accordingly, a direction is issued to the respondents to accord similar treatment to all the petitioners as in *Chhabi Lal* and *Rajender Kumar* cases (supra).

24.04.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>