

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

- |    |                                              |                |
|----|----------------------------------------------|----------------|
| 1. | CWP-7764-2015<br>Date of decision: 4.12.2018 |                |
|    | Balbir Singh and others                      | ...Petitioners |
|    | Versus                                       |                |
|    | State of Punjab and others                   | ...Respondents |
|    |                                              |                |
| 2. | CWP-5651-2012                                |                |
|    | Prita Singla and others                      | ...Petitioners |
|    | Versus                                       |                |
|    | State of Punjab and others                   | ...Respondents |
|    |                                              |                |
| 3. | CWP-6890-2016                                |                |
|    | Rekha Rani and others                        | ...Petitioners |
|    | Versus                                       |                |
|    | State of Punjab and others                   | ...Respondents |
|    |                                              |                |
| 4. | CWP-6892-2016                                |                |
|    | Narinder Kaur                                | ...Petitioner  |
|    | Versus                                       |                |
|    | State of Punjab and others                   | ...Respondents |

**CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN**

Present: Mr.DS Patwalia, Sr. Advocate with  
Ms.Gurjot Grewal, Advocate for the petitioner(s)  
in CWP-7764-2015

Ms.Alka Chatrath, Advocate for the petitioner(s)  
in CWP-5651-2012

Mr.T.S.Chauhan, Advocate for the petitioner(s)

in CWP-6890 & 6892-2016

Mrs.Bhavna Gupta, DAG, Punjab

Mr.Anupam Singla, Advocate  
for respondent No.4 in CWP-5651-2012  
for respondent No.4 & 5 in CWP-6890 & 6892-2016

Mr.Gagandeep Singh, Advocate  
for respondent No.4 in CWP-7764-2015

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**JITENDRA CHAUHAN, J.**

This judgment shall dispose of the aforementioned writ petitions, as common question of law and facts are involved therein.

The facts are taken from CWP-7764-2015. The petitioners seek issuance of a writ in the nature of mandamus directing the respondents to regularize their services w.e.f. 1.7.2011 i.e. the date from which the services of their counterparts were regularized.

It is case of the petitioners that the Punjab Information and Communication Technology Education Society (PICTES) was formed in the year 2004 with a primary objective to promote information and communication technology education to the students of the government schools across the State of Punjab. After registration of the society, recruitment process was initiated for induction of two set of employees:-

- Computer Teachers
- Non-Teaching Staff/Administrative Staff

As a part of the recruitment process, the petitioners herein were appointed on various administrative/non teaching posts from the year 2005 onwards on contractual basis. Subsequently, the petitioners belonging to the

non-teaching staff and the computer teachers (teaching staff) had sought regularization of their services from the government. As a result thereof, vide letter dated 2.12.2010 (Annexure P-3), the services of 6500 computer teachers who had been working on contract basis were regularized. However, the services of the petitioners were not regularized. In this regard, the petitioners made various representations to the authorities, but to no avail.

It is asserted that the petitioners have been discriminated against by the respondents in not regularizing the petitioners, whereas, services of Computer Teachers were regularized w.e.f. 01.07.2011. Thus, the action of the respondents in regularizing the services of only Computer Teachers working with PICTES and denying the same benefit to Administrative Staff/non-teaching staff is violative of Articles 14 and 16 of the Constitution of India. The Department of Finance is denying the claim of the petitioners by claiming paucity of funds and in doing so has relied upon policy dated 17.11.2011. The said action is discriminatory since the paucity of funds would apply even in the cases of regularization of Computer Teachers, who are being regularized at regular intervals till date and the financial implication is being borne by the respondent-State.

On the other hand, on behalf of the respondents it is contended that the claim of the petitioners is not at par with the computer teachers, whose services have been regularized by the government. The services of the computer teachers were regularized prior to the issuance of the instructions dated 2.12.2010 (Annexure P-3), whereas as per instructions

dated 17.11.2011 (Annexure P-10), only those departments were to recommend the cases for regularization of the contractual employees, who were in a position to bear the financial burden, after regularization of services of their employees.

Heard.

It is to be noticed that the factum of the regularization of the services of computer teachers has not been disputed. It is also an admitted fact that the posts held by the petitioners and that of the computer teachers were created in Punjab ICT Education society (PICTES) in the year 2004. It is a wholly State controlled society and the objective and function of the society is to promote the computer education in government schools, which comes within the definition of State under Article 12 of the Constitution. After the registration of the society, it started recruitment for two sets of employees, namely, (i) computer teachers and (ii) Non teaching staff/ administrative staff. Initially, the appointment in the PICTES were made through advertisement on contractual basis for both sets of employees. However, vide order dated 2.12.2010 (Annexure P-3), the computer teachers were regularized whereas the petitioners, whose claims are similar to that of the computer teachers, was ignored for regularization on technical grounds of non recommendation of their cases before issuance of instructions dated 2.12.2010 (Annexure P-3).

In this backdrop, the action of the respondents has resulted in serious prejudice to the legitimate rights of the petitioners. Respondent No.4- Society being State controlled cannot be allowed to make a class

within a class. Equals should be treated equally. The petitioners have been working with the computer teachers since the inception of the society and the claim of the petitioner cannot be ignored, when the claim of the computer teachers has been accepted by the Government.

Hon'ble the Supreme Court in **Workmen of Bhurkunda Colliery of Central Coalfields Ltd. v. Management of Bhurkunda Colliery of Central Coalfields Ltd., 2006 (1) S.C.T. 584** has held as under:

“16. This Court in *S.M. Nilajkar and Others v. Telecom Distt. Manager, Karnataka*, 2003(2) SCT 1013 : (2003)4 SCC 27 was of the opinion that the labour laws being beneficial pieces of legislation are to be interpreted in favour of beneficiaries. According to the Court, in case of doubt or where it is possible to take two views of a provision, the benefit must go to the labour.

17. This Court in **State of Haryana v. Piara Singh, 1992(3) SCT 201 : (1992)4 SCC 118** held that so far as the work-charged employees and casual labour are concerned, the effort must be to regularise them as far as possible and as early as possible subject to their fulfilling the qualifications, if any, prescribed for the post and subject also to availability of work. If a casual labourer is continued for a fairly long spell - say two or three years - a presumption may arise that there is regular need for his services. In such a situation, it becomes obligatory for the authority concerned to examine the feasibility of his regularization. While doing so, the authorities ought to adopt a positive approach coupled with an empathy for the person.

18. In the matter of regularization, the main concern of

the Court is to see that the rule of law is respected and to ensure that the executive acts fairly and give a fair deal to its employees consistent with the requirement of Articles 14 and 16 of the Constitution of India. The State being a model employer should not exploit the employees nor take advantage of helplessness and misery of either the unemployed person or the person concerned, as the case may be.

19. Where a temporary or ad hoc appointment is continued for long, the Court presumes that there is regular need for his services on a regular post and accordingly considers regularization.

20. It is also our bounden duty to give expression to the legislative intention for creating a healthy environment leading to proper understanding and cooperation and in true sense a partnership between the employers and the employees in cases of industrial disputes.

26. The industrial jurisprudence, likewise, seeks to evolve a rational synthesis between the conflicting scheme of the employers and employees. In finding out solutions to industrial disputes great care is always taken, as it ought to be, to see that the settlement of industrial disputes does not go against the interests of the community as a whole. In the decision of major industrial disputes, three facts are thus involved. The interests of the employees which have received constitutional guarantees under the Directive Principles, the interests of the employers which have received a guarantee under Article 19 and other Articles of Part III, and the interests of the community at large which are so important in a Welfare State. It is on these lines that industrial jurisprudence has developed during the last

few decades in our country.

27. When we modulate our thinking process and attitude according to the underlying philosophy of Industrial and Labour jurisprudence and apply the laws meant for industrial peace and harmony, then the conclusion becomes irresistible that the employees who have been working since 1973-74 required to be regularised as expeditiously as possible.

28. Both employers and employees have their respective obligations. They must have the appreciation of each others' responsibilities, duties and obligations. The Trade Union and Labour Union should understand and appreciate the fact that Labour is not a commodity nor is it a mere supply of Labour force at the management's disposal. Essentially, Labour is the real basis that underlines the production of goods and services. Through the work should the human personality and its sense of responsibility be able to unfold, management should appreciate this and always attribute its success to the trained and effective labour force. It must be understood by all concerned that both the employees and employers are vital for any industry and unless there is proper coordination, a smooth functioning of any industry would be difficult.”

In view of the above, the present petitions are allowed. The respondents are directed to regularise the services of the petitioners from the date when the services of the computer teachers have been regularized. However, the petitioners shall be entitled to difference of pay only for a period of 38 months in view of the law laid down by this Court in **Saroj**

**Kumari vs. State of Punjab 1998(3) S.C.T. 664.** The necessary exercise be

completed within a period of two months from the date of receipt of the certified copy of the judgment.

Photocopies of this judgment be placed on the file(s) of the connected case(s).

4.12.2018  
gsv

**(JITENDRA CHAUHAN)**  
**JUDGE**

|                                     |            |          |           |
|-------------------------------------|------------|----------|-----------|
| <b>Whether speaking / reasoned?</b> | <b>Yes</b> | <b>/</b> | <b>No</b> |
| <b>Whether reportable?</b>          | <b>Yes</b> | <b>/</b> | <b>No</b> |