

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

CWP No.28951 of 2017(O&M)

Date of Decision-07.07.2023

Kamaljit Singh and another

... Petitioners

Versus

Sate of Punjab and others

... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Gurminder Singh, Sr. Advocate with
Mr. Jatinder Singh Gill, Advocate
for the petitioners.

Mr. Sanjeev Soni, Addl., A.G., Punjab

Mr. R.S. Khosla, Senior Advocate with
Ms. Bharti Pujara, Advocate
for GMADA.

Mr. D.S. Patwalia, Sr. Advocate with
Mr. Gaurav Rana, Advocate
for the added respondents.

Mr. R.K. Arora, Advocate and
Ms. Saguna Arora, Advocate
for respondents No.5 to 16.

RAJ MOHAN SINGH, J.

[1]. The petitioners have preferred this writ petition for the issuance of an appropriate writ in the nature of certiorari, quashing the order dated 28.11.2017, whereby the claim of the petitioners for regularization of their services in terms of State Government Policies dated 18.03.2011 and 17.03.2011 has been declined. Further the order dated 07.12.2017 is also sought to be annulled,

whereby the services of the petitioners have been directed to be dispensed with w.e.f. 31.12.2017 even after service of more than 8 years to their credit. A writ in the nature of mandamus is sought for regularization of services of the petitioners in view of policies dated 18.03.2011 and 17.11.2011.

[2]. Notice of motion was issued on 19.12.2017 and operation of the order dated 07.12.2017 was stayed. CM No.8666-CWP of 2022 for impleading the additional private respondents was allowed and the respondents No.5 to 16 were ordered to be impleaded. The aforesaid additional respondents have been appointed on regular basis after the appointment of the petitioners on contractual basis. In order to raise the issue regarding seniority, the additional respondents have already been impleaded as party respondents No.5 to 16 vide order dated 30.05.2022.

[3]. Learned Senior Counsel for the petitioners vehemently submitted that the petitioners were appointed as Law Assistants in GMADA in the year 2009 and their selection was done after following the proper procedure. An advertisement was issued in Daily Ajit Newspaper on 21.01.2009, requiring Law Assistants to be appointed for the tenure of one year on contractual basis extendable from time to time in view of requirement of the respondent No.3-GMADA. The qualification required was law graduate with minimum experience of three years as an Advocate

preferably in the field of Civil, Urban and Commercial cases. Lump sum salary of Rs.15,000/- was prescribed. Thereafter, the petitioners were appointed and they are serving since then as their services were extended from time to time. Ultimately, six posts of Legal Assistants were filled on the recommendations of the Selection Committee comprising of five members i.e. Principal Secretary (Finance), Secretary to Government of Punjab, Housing and Urban Development, Chief Administrator, GMADA, one expert on subject matter and a representative of Welfare Department, Government of Punjab. The appointment letters were issued on different dates. The appointment letter was issued to the petitioner No.1 on 09.06.2009 and the appointment letter was issued to the petitioner No.2 on 20.07.2009. As per condition of the appointment, the petitioners will not be treated as employees of the authority/respondent No.2. The petitioners would neither get any benefit available to the employees, nor would be entitled for any claim etc for regularization of contractual service at a future date. An agreement was also executed, wherein para No.4 of the agreement reads as under:-

“4. The appointee shall not be treated as an employee of the Authority. He/she would neither get any benefit available to employees nor would be entitled for any claim etc. for regularization of contractual service at a future date.”

[4]. The extension in tenure for one year in contractual services was given from time to time in view of workload in the

Authority/respondent No.3. The salary was also increased proportionally during the contractual period, however, terms and conditions of the appointment remained the same.

[5]. Learned Senior Counsel for the petitioners further submitted that the petitioners were appointed against regular sanctioned posts and this fact is apparent from the office order dated 28.11.2017 issued by the Chief Secretary of respondent No.3/GMADA Mohali. According to this order, there are 8 posts available in the Law Branch of LO/Legal Assistant. Similarly two more posts of LO and Legal Assistants are available in the LAC Branch. Nomenclature of LO and Legal Assistants is being used as inter-changeable and this letter would show that there are regular sanctioned posts available with the respondent No.3, upon which the petitioners are working. The posts of Law Officers/Legal Assistants are classified as Group-B (General) by the respondent-Authority having pay band of Rs.10300-34800 with Grade Pay of Rs.4200/-. The aforesaid letter further shows that staff of Group-A and Group-B shall be hired on contractual basis and shall be taken on deputation for which a committee comprising of Principal Secretary, Finance as Chairman, Secretary to Government of Punjab, Housing and Urban Development, Chief Administrator, GMADA, one expert on subject matter and a representative of Welfare Department, Government of Punjab is constituted.

[6]. State of Punjab came out with the policy of regularization on 18.03.2011, vide which it was decided that the employees on contractual basis should be regularized w.e.f. 01.04.2011, who had completed three years of contractual service or on completion of three years on contractual basis, whichever is later. The aforesaid policy further prescribed that the regular appointments will be made by ensuring the strict compliance of the conditions i.e. the regular appointment will be treated from the date of issuance of the order and no benefit of past service (notional or otherwise) will be given to the employees being regularized, but in case in any department, the employees of the same cadre are appointed by the direct recruitment by adopting the proper procedure, then in those circumstances, the employees being regularized under this policy will be placed below them in the seniority.

[7]. Since the above regular appointments are being made under the aforesaid conditions keeping in view the legal advice, administrative needs and in the public interest, in case any candidate is deprived of his regularization for want of fulfillment of the above requisite conditions, then he cannot stake his claim for regular appointment. This exercise is “as a one time measure” and has to be implemented in the departments shown in the Annexure and the process of regular appointments be completed within six months from the issue of instructions. No relaxation in

the instructions, in any case, will be given. The instructions earlier issued for regularization of employees of these departments will not be treated as final. These instructions were being issued with the concurrence of Finance Department on the basis of advice given.

[8]. Learned Senior Counsel for the petitioners further submitted that on 17.11.2011, an independent policy came to be issued in respect of regularization of services of the daily wagers/work-charged and contractual employees working in the various Boards/Corporation/ Commissions/Co-operative Institutions/other societies and Institutions falling under the various Government departments. These instructions do not talk about Group-B employees. The personal department vide letter dated 28.10.2011 gathered the entire information with regard to regularization of services of the daily wagers/work-charged and contractual staff working in the various Board/Corporations etc and information was sent to the Directorate accordingly. It has been decided by the Government of Punjab that the services of daily wager/work-charged presently working in the various Board/Corporation falling under various departments of the Punjab Government should have been regularized in accordance with the fulfillment of terms and conditions contained in the instructions dated 18.03.2011 issued for the purpose of regularization of contractual staff. The Finance Department

(Directorate of Disinvestment) is empowered by the State Government to issue the requisite directions required in this matter. The recommendation with regard to the regularization of the services of the presently working daily wagers/work-charged and contractual staff will be made by the Board of Directors/competent authority of the concerned Institution if the concerned Authority is satisfied with the fulfillment of all the requisite terms and conditions contained in the letters issued by the personal department and the financial position of the said institution is sound. The concerned Board/Corporation/Commission will send the proposal along with recommendation to the Administrative Department and after due consideration, the Administrative Department will send its proposal along with recommendations to the Finance Department and subsequently, the Directorate of Disinvestment will obtain the approval for the purpose of regularization of the services in question from the Hon'ble Chief Minister through the Chief Secretary, Punjab accordingly. The services of these employees will be regularized with immediate effect. These employees will not be entitled for any financial or notional benefits. No past service benefits and pensionary benefits will be applicable to these employees.

[9]. Learned Senior Counsel for the petitioners further submitted that initially there was only one Authority i.e. respondent

No.2 which was constituted and established for the areas falling under the Revenue District of SAS Nagar. Vide notification dated 14.08.2006, the power to appoint the staff of GMADA vested with the Chief Administrator, GMADA/respondent No.3. The petitioners were appointed through GMADA, however, the said powers were later transferred back to the respondent No.2 vide notification dated 06.10.2010. The petitioners filed representations for regularization on 18.12.2012 before the Chief Administrator, GMADA. Vide order dated 13/14.03.2013, the Chief Administrator, GMADA passed an order thereby ordering that in view of interest of office work, Legal Assistants appointed on contract basis in GMADA now will be known as Law Officers. The petitioner No.1 was assigned the work of replies of writ petition and replies of Government and files relating to High Court and files of Estate Office for opinion will be put before the Legal Advisor. Similarly, the petitioner No.2 was asked to do the work of preparing reply relating to Land Acquisition Collector in association with Senior Law Officer appointed by GMADA.

[10]. On the strength of aforesaid letter, learned Senior Counsel for the petitioners submitted that the petitioners are being assigned the work as that of Legal Law Officers and they are discharging their duties accordingly.

[11]. The representation dated 18.12.2012 filed by the petitioners was rejected by the Chief Administrator vide order

dated 06.05.2013 on the ground that the employees appointed on contractual basis as per terms and conditions do not cover under the instructions of the State Government issued on 18.03.2011 and therefore, the matter regarding the regularization of the services of the contractual staff working in various authorities, cannot be considered by the respondent No.2.

[12]. Against the aforesaid order dated 06.05.2013 passed by the Chief Administrator of the respondent-Department, the petitioners filed CWP No.11047 of 2013, which was disposed of vide order dated 11.04.2016, directing the respondent No.1 to take a decision and forward the claim of the regularization of the petitioners to the competent authority. It was ordered that it would be appropriate, if the petitioners are associated with the said decision making process by the competent authority during the hearing at the time of consideration of the case of regularization. It was ordered that since the petitioners have been working since 2009, therefore, it would be appropriate that their services would not be dispensed with till the time decision making process is completed. In case, any adverse order is to be passed, the same may not be acted upon for a period of four weeks thereafter.

[13]. In compliance of the aforesaid order, the respondent No.1 nominated the Chief Administrator, PUDA/respondent No.2 as competent authority to decide the issue of regularization of the petitioners. Thereafter, the Chief Administrator of respondent No.2

passed an order dated 10.10.2016 after considering the policies dated 18.03.2011 and 17.11.2011, mentioning that the Chief Administrator of respondent No.2 is not competent to take any decision of regularization in case of the petitioners and the case is to be sent to Administrative Department for further action as per instructions.

[14]. Thereafter, the order dated 28.11.2017 came to be passed on the premise that after observations made by the Chief Administrator of respondent No.2 in respect of his incompetence to take any decision for regularization of the case of the petitioners and the case was ordered to be sent to Administrative Department for further action. The Finance Department has given the advice that the process of regularization of services was a one time measure and this exercise was to be completed within the prescribed period of six months. Vide letter dated 15.12.2014, the Directorate of Public Enterprise and Disinvestment had directed not to send the cases of regularization to them as per the provision of policy of Personnel Department, therefore, at that stage, the proposal was not considered and accordingly, the case for regularization of the petitioners was rejected vide order dated 28.11.2017. Vide order dated 07.12.2017, the respondent-Department terminated the services of the petitioners w.e.f. 31.12.2017.

[15]. Learned Senior Counsel for the petitioners further submitted that in view of ratio laid down in **CWP No.11427 of 2015** titled **Sukhjad Singh and others Vs. State of Punjab and others** decided on 19.12.2018, the petitioners were also entitled for the same relief as in those cases also the order of rejection was passed in similar manner and subsequently, they were regularized. Even in case of the petitioners, a favourable recommendation was made by the Additional Chief Administrator, GMADA to the Chief Administrator PUDA/respondent No.2, requesting for regularization of the services of the petitioners on the ground that the staff structure was approved by the respondent No.2 in respondent No.3, wherein 5 posts of Law Officer/Legal Assistant have been sanctioned. At present, 4 Legal Assistants on contractual basis and 1 regular Law Officer are working in the respondent No.3. In the year 2009, the petitioners were appointed, whereas the staff structure of the respondent No.2 was framed in the year 2010 on contractual basis after adopting proper procedure. After that, the respondent No.3 has not filled up the vacancies against the sanctioned posts of PUDA.

[16]. Government of Punjab has already regularized the services of 90 Assistant District Attorneys appointed on contract basis in the Prosecution and Litigation Department Punjab on completion of 3 years of service and other required formalities in the pay scale of Rs.10300-34800+4800 gross pay. As per

conditions of regularization, the seniority of the officials regularized will be fixed as per the Service Rules 2010 Punjab Prosecution and Litigation (Group-B). The appointment will be as per notification dated 02.03.2004 issued by the Punjab Government under the new defined contributory pension scheme.

[17]. Learned Senior Counsel for the petitioners further submitted that as per staff structure approved by PUDA, there are 5 sanctioned posts of Law Officer for GMADA against which 4 Legal Assistants are working on contractual basis. These employees have staked their claim for regularization of services as per instructions of the Government as they have completed three years of contractual services. A decision in respect of appointment of staff of all the authorities is to be taken by PUDA, therefore, the case was recommended by the Chief Administrator of respondent No.3 to the Chief Administrator of the respondent No.2 with the aforesaid information. The case of the petitioners is fully covered under the instructions dated 18.03.2011 and 17.11.2011 of the Government as no financial implication is involved and the Finance Department has no role to play as per instructions dated 17.11.2011 and the Government is not to pay anything. While rejecting the claim of the petitioners, policy dated 17.11.2011 has been completely obliterated.

[18]. *Per contra*, learned counsel for the respondents have opposed the claim of the petitioners by submitting that the

Department of Personnel did not respond to the claim of the petitioners on the premise that the proposal of the Administrative Department in the context of decision in **Sukhjad Singh's case (supra)** related to the Department of Health, therefore, Department of Personnel was not in a position to give any comments keeping in view the merits of the case in **Sukhjad Singh's case (supra)**. State of Punjab has also filed Special Leave to Appeal (C) No(s).15325 of 2022 against the order dated 28.03.2022 passed in LPA No.516 of 2020, dismissing the appeal on limitation, wherein the Hon'ble Apex Court has stayed the contempt proceedings pursuant to the order of the learned Single Judge dated 19.12.2018. The aforesaid SLP is still pending before the Hon'ble Apex Court.

[19]. Learned Senior Counsel for the added respondents submitted that as per the appointment of the petitioners, the same was purely on contractual basis. The petitioners are not to be treated as employees of the Authorities as per condition No.2(i). Even the extension granted to the petitioners was only for contractual services for one year every time. Even as per condition No.7 of the letter dated 26.11.2007, the staff of Group-B posts was to be hired on contractual basis. The petitioners are holding the Group-B posts. The policy dated 18.03.2011 was a one time measure implemented only in particular departments shown in the Annexure and the process of regular appointment

was to be completed within six months and no relaxation in the instructions was to be given. The appointment of the petitioners was a contractual appointment and the petitioners are bound by the terms and conditions of the contract, wherein they were not entitled to seek regularization of contractual services at a future date being not the employees of the authorities. The conditions of the appointment letter and conditions of the agreement are suggestive of the fact that the petitioners were not to be treated as employees of the authorities. They would neither get benefit available to the employees, nor would be entitled to any claim of regularization of contractual service at a future date. The regularization policy is applicable to the employees working on contractual basis on sanctioned posts by virtue of a transparent selection. The decision in **Secretary, State of Karnataka and others Vs. Uma Devi and others, 2006(4) SCC 1** has to be strictly complied with. In view of ratio of the aforesaid judgment, there cannot be any regularization of Group-B posts. Five Judges Bench of the Hon'ble Supreme Court in the aforesaid **Uma Devi's case (supra)** has held that no regularization of Group-B post is permissible. The respondents No.5 to 16 are directly recruited/promoted as Law Officers during the year 2012 to 2019 and thereafter, the respondent No.5 has been promoted as Senior Law Officer vide order dated 26.06.2021 with a rider regarding pendency of the present writ petition, whereas the post of Senior Law Officer is purely a promotional appointment post of Group-A,

therefore, the condition imposed in the promotional post on the basis of the present writ petition is claimed to be totally illegal. Similar condition has been imposed in the appointment letter of the respondent No.16 issued on 12.07.2021. At the time of issuance of advertisement dated 08.07.2018 by the respondent No.2 for recruitment to the post of Law Officer through direct recruitment, there was no condition mentioned that the appointment shall be subject to decision in the present writ petition. Even the application filed against the advertisement issued by the respondent No.2 for recruitment to regular posts of Law Officer was allowed to be withdrawn being not pressed by the petitioners. The petitioners could have filed miscellaneous application for relaxation of age, if so required, in order to compete in the regular selection, but they did not appear in the examination just to take benefit of back door entry, which is not permissible in view of **Uma Devi's case (supra)**.

[20]. In **CWP No.20333 of 2016** titled **Gurinder Singh and others Vs. State of Punjab and others** decided on 21.01.2022, the prayer was for quashing of order of regularization of private respondents therein. The challenge was made to the order of regularization, whereby the services of private respondents were confirmed post-regularization as well as for quashing of tentative seniority list. The policy in question was considered by the Court.

Under issue of violation of policy dated 18.03.2011, following observations were made:-

“The terms of the policy have been referred to in the preceding paragraphs. At the expense of repetition, it is stated that regularization was to be done w.e.f. 01.04.2011 or on completion of 03 years of service whichever was later and that the directions issued in the policy were to be implemented within six months of the date thereof. Relevant extracts of the policy are reproduced below:-

2. ‘On the basis of the information received in respect of employees working on contract basis in these departments (as mentioned in the enclosed list) the matter was considered by the Cabinet in its meeting held on 09.03.2011 and as per the under noted decision of the Council of Ministers, the employees who are included in the list sent by you (who fulfills the prescribed qualification and eligibility as per the rules/instructions) are required to be appointed on regular basis.

(i) Those employees who are working on contract basis and who were recruited by following the transparent procedure with regard to the prescribed qualification/eligibility, their services are to be regularized w.e.f. 01.04.2011 or on completion of 03 years service on contract basis, whichever is later but for them new posts will not be created.’

XXXXXXX

(4) ‘As these regular appointments are being made on the aforesaid conditions in view of the legal opinion, administrative requirements and in public interest. Therefore, if any employee fails to get regular appointment due to non-fulfillment of the above conditions, then he cannot claim his right for regular

appointment. This action is being taken as a one time measure and this is applicable only in the case of the departments included in the enclosed list. Action regarding regularization of services shall be completed within six months of the issuance of this letter. No relaxation of any condition shall be given in any case.'

The aforementioned extracts show that regularization could be done even after 01.04.2011, however, the action had to be completed within six months of the issuance of the letter. Thus, the policy dated 18.03.2011 had ceased to exist after expiry of six months from the date of issuance thereof. This is how the State had also understood the same as the noting dated 02.04.2013 requests for a relaxation of the stipulation of six months.

On behalf of the respondents, it has been submitted that the Cabinet had relaxed the period of six months and the same was communicated vide letter dated 04.10.2013. There being no challenge to this decision of the Cabinet, it can't be argued that regularization was done after the policy has ceased to exist.

The decision of the Cabinet is reproduced in the communication dated 04.10.2013 and the same is extracted below:-

'After discussing memo dated 24.09.2013 of the Department of Home Affairs & Justice proposal mentioned in its para No.2 has been approved. It was also decided that Assistant District Attorneys who will complete 03 year's experience on 05.10.2013 and 06.10.2013 shall be were regularized from the said dates (05.10.2013 and 06.10.2013)'

The decision does not explicitly extend the duration of the policy, but it states that the ADAs who had completed 03

years' experience on 05.10.2013 and 06.10.2013 were to be regularized. Impliedly, this decision extended the applicability of the policy dated 18.03.2011. The policy having been framed by the State Government, it was entitled to amend the same also. Letter dated 04.10.2013 itself not being under challenge, there is no escape from the conclusion that the policy had been extended for the private respondents."

[21]. The second issue considered by the Court was that whether the action of extension of policy dated 18.03.2011 was arbitrary. In the aforesaid case, the Court has commented that the policy dated 18.03.2011 was framed for employees of 7 different departments. Following observations were made under the aforesaid head:-

"The policy dated 18.03.2011 was framed for employees of seven different departments. However, it has been extended only for ADAs belonging to the Prosecution & Litigation Department which is part of the Department of Home Affairs & Justice and also includes the Jails Department and Advocate General's office. The policy was framed for the benefit of employees of the said departments as well, but the ADAs were singled out for preferential treatment. Nothing has been brought on record to show that there was a necessity to extend the policy for granting permanent employment. Process of direct appointment had already been initiated and the posts occupied by the contractual employees could also have been filled up through direct recruitment, may be in a staggered fashion to ensure that the working of the subordinate Courts was not adversely affected. The preferential treatment thus, given to the private respondents and that too on the basis of their own request, is patently arbitrary.

It is clarified that the above finding may not be construed to be contradictory to the finding that the decision of the Cabinet to extend the applicability of policy dated 18.03.2011 to the private respondents was within its jurisdiction. It is reiterated that the action was within its jurisdiction, but there is no material on record to justify the taking of such an action. Accordingly, it is arbitrary and action of regularization on the basis thereof is bad in law. Even though, there is no challenge to the communication dated 04.10.2013, technicalities of pleading cannot come in the way of substantial justice. The communication has been placed on record by the State itself and the parties should have been alive to the legality or otherwise thereof.”

[22]. Under the issue of validity of regularization, the Court proceeded to comment in the following manner:-

“On the date of regularization i.e. 08.10.2013, the 1989 Rules had been repealed by the 2010 Rules. The 1960 Rules would be deemed to have been repealed as two sets of Rules cannot occupy the same space. The 2010 Rules provide for 100% appointment through direct recruitment. It is thus, apparent that the Rules framed in exercise of powers conferred by the proviso to Article 309 of the Constitution of India have been violated. The 2010 Rules also show that the service comprises ADAs only and the said posts are Group-B posts. No regularization on Group-B posts is permissible. If at all, regularization can be done only on Group-C or Group-D posts. Casual appointments and appointments on daily-wage basis are made against such posts only and the entire discussion in Uma Devi (supra) is in the context of such employees only. The tendency needs to be nipped in the bud so that we are not faced with the day when appointments are made to Group-A posts too through the process of

regularization. The situation appears to be absurd but not beyond visualization.

The argument raised on behalf of the private respondents that the 1989 Rules were applicable to them cannot be accepted. The said Rules were in force when they were appointed on contract basis. As on date of regularization, the 1989 Rules stood repealed and thus, the argument is fallacious.

In Uma Devi (supra), it has been held that neither the Executive nor the Courts can accept a request for appointment on public posts through a mode violative of the Constitutional scheme. It has also been held that making an employee permanent is a concept different from that of regularization and no employee can be permanently appointed on a public post except in accordance with the Constitutional scheme. The best available talent must be brought into public service and the fact that the private respondents failed to qualify in the open competition establishes that they are not the best. For these reasons, the regularization of the private respondents cannot be held to be legal and valid.”

[23]. Evidently, the Court has found that no regularization of Group-B is permissible. Regularization can be done only in Group-C and Group-D posts. The regularization of Group-B needs to be curbed. As per ratio laid down in **Uma Devi’s case (supra)**, neither the Executive, nor the Courts can accept a request for appointment on public posts through a mode violative of the Constitutional scheme. Making an employee permanent is a concept different than that of regularization and no employee can be permanently appointed on different posts except in accordance with law. Order of regularization of Assistant District Attorney was

set aside. It was ordered that the State may, however, continue them as contract employees subject to initiation of process of direct appointment to the posts within the prescribed period.

[24]. Based on the distinguishing features in **Sukhjad Singh's case (supra)** and **ratio of Gurinder Singh's case (supra)** coupled with mandatory directions in **Uma Devi's case (supra)**, the Chief Administrative of the respondent No.2 has passed a detailed order dated 10.03.2023 in view of order dated 20.04.2022. The Authority has rejected the case of the petitioners on the grounds that firstly the appointments of the petitioners are contractual appointments and are governed by conditions of appointment and agreement executed between the parties, wherein the petitioners would neither get any benefit available to the employees, nor would be entitled to any claim etc for regularization of contractual service at a future date. The petitioners shall not be treated to be employees of the Authority. He/she would neither get any benefit available to the employees, nor would be entitled for regularization of service at a future date. Secondly, in the year 2011, State Government promulgated policies dated 18.03.2011 and 17.11.2011 for regularization of the service of contractual employees in the terms of **Uma Devi's case (supra)**. As per said policies, services of only those employees who were appointed on contract basis and were recruited by following transparent procedure with regard to the prescribed

qualification/eligibility, were to be regularized w.e.f. 01.04.2011 or on completion of three years services on contract basis, whichever is later. The policy dated 18.03.2011 is clear that regularization was to be effected w.e.f. 01.04.2011 in respect of employees who had completed three years of service. The petitioners were appointed in the year 2009 and they had not completed three years as on 01.04.2011, nor at later stage on 18.09.2011 on completion of six months of issuance of policy and accordingly, the petitioners were not entitled to the benefit of the policies dated 18.03.2011 and 17.11.2011 as the action under the policy dated 18.03.2011 had to be completed within six months from the issuance of the policy. Accordingly, the petitioners were not entitled to the benefit of the policies dated 18.03.2011 and 17.11.2011 as the action under the policy dated 18.03.2011 had to complete within six months upto 18.09.2011 from the date of issuance of the policy. The policy dated 18.03.2011 had ceased to exist after expiry of six months being one time measure. Thirdly, the services of the petitioners were terminated in the year 2017 and no further contract of contractual employment has been made thereafter. The petitioners are working on contractual basis only on the basis of interim stay granted by this Court. Fourthly, at the time of advertisement dated 08.07.2018 for recruitment of regular Law Officer, the petitioners had a chance to appear even by seeking relaxation in age. At one point of time, the advertisement was sought to be stayed by moving a miscellaneous application

and the same was got dismissed as withdrawn as the petitioners wanted to continue their contractual engagement. Even the petitioner No.2 in CWP No.28719 of 2017 (Sunny Raheja) has participated in the selection process conducted by PUDA for the post of regular Law Officer in the year 2018, but was not selected. Fifthly, the post of Legal Assistant as occupied by the petitioners were purely contractual in nature and were sanctioned only for making appointment on purely contractual basis and these contractual posts were temporary in nature. The petitioners were never appointed against the regular sanctioned posts as described in **Uma Devi's case (supra)**. In 42nd meeting of Authority held on 01.09.2010, agenda item No.42.13 has been discussed and it was decided that all technical and non-technical posts will be filled up in future by Punjab Urban Planning and Development Authority, PUDA only. Sixthly, as per Punjab Urban Planning and Development Authority (Employees Service) Regulations, 1999, the post of Law Officer/Legal Assistant has been classified as Group-B. In terms of judgment passed in **Gurinder Singh's case (supra)**, the post of Group-B cannot be regularized. This fact has already been endorsed by the Hon'ble Apex Court in **Uma Devi's case (supra)** by holding that no regularization of Group-B post is permissible. Seventhly, as per ratio laid down in **Uma Devi's case (supra)**, neither the Executive, nor the Courts can accept a request for appointment on public posts through a mode violative of the Constitutional

scheme. Eighthly, in **Sukhjad Singh’s case (supra)**, the petitioners therein are Group-C employees and their services were governed by Punjab Health Department and Family Welfare Technical (Group-C) Service Rules, 2016. The said judgment was challenged in LPA No.516 of 2020, which was dismissed on 03.09.2020 on the ground of delay of 349 days in filing the appeal. The State of Punjab has already filed SLP(C) No.15325 of 2022, in which notice has already been issued and contempt proceedings have been stayed. The ratio laid down in **Sukhjad Singh’s case (supra)** is totally different being a case of Group-C where regularization is permissible. Order dated 10.03.2023 passed by the Chief Administrative has been simply placed on record without assailing the same on legal parameters.

[25]. For the reasons recorded hereinabove, this Court does not consider the claim of the petitioners to be justified in view of their posts being Group-B posts and in the light of judgment passed in **Gurinder Singh’s case (supra)** and **Uma Devi’s case (supra)**, no indulgence can be granted in the present writ petition. This writ petition is accordingly dismissed.

(RAJ MOHAN SINGH)
JUDGE

07.07.2023
Prince

Whether reasoned/speaking Yes/No

Whether reportable Yes/No