

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

Decided on :13.03.2024

105 CM-4231-2024 in/and
CWP No. 2158-2020 (O&M)

ASHISH SHARMA AND OTHERSPETITIONERS

Versus

STATE OF HARYANA AND OTHERS
... RESPONDENTS

**102. CM-4072-CWP-2024 in/and
CWP-24397-2015 (O&M)**

MUKHTYAR SINGH AND ORSPETITIONERS

Versus

STATE OF HARYANA AND ANR ... RESPONDENTS

**104. CM-4204-CWP-2024 in/and
CWP-9335-2017 (O&M)**

SUNIL AND ANRPETITIONERS

Versus

STATE OF HARYANA AND ORS ... RESPONDENTS

**107.1 CM-1939-CWP-2024 in/and
CWP-2286-2021 (O&M)**

VIRENDER SINGH MAANPETITIONER

Versus

STATE OF HARYANA AND ORS ... RESPONDENTS

107.2

CM-1962-CWP-2024 in/and
CWP-2753-2021 (O&M)

RAM NIWAS

Versus

.....PETITIONER

STATE OF HARYANA AND ORS

... RESPONDENTS

107.3

CM-1974-CWP-2024 in/and
CWP-18677-2021 (O&M)

NARESH KUMAR

Versus

.....PETITIONER

STATE OF HARYANA AND ORS

... RESPONDENTS

107.4

CM-1944-CWP-2024 in/and
CWP-2760-2021 (O&M)

DINESH KUMAR

Versus

.....PETITIONER

STATE OF HARYANA AND ORS

... RESPONDENTS

107.5

CM-1977-CWP-2024 in/and
CWP-2767-2021 (O&M)

SHAMSHER SINGH

Versus

.....PETITIONER

STATE OF HARYANA AND ORS

... RESPONDENTS

110. CM-4229-CWP-2024 in/and
CWP-12006-2022 (O&M)

FATIA

.....PETITIONER

Versus

STATE OF HARYANA AND ORS

... RESPONDENTS

209 CWP No. 6125-2017 (O&M)

BIRMATI AND OTHERS

.....PETITIONERS

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

210 CWP -26519-2017 (O&M)

TEJ BHAN AND OTHERS

.....PETITIONERS

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

212 CWP No. 2568-2018 (O&M)

ZILE SINGH

.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

212.2 CWP -- 28241-2017 (O&M)

OMA

.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

212.3

CWP-3165-2018 (O&M)

RAJA @ RAJINDER

.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

217

CWP-24505-2018 (O&M)

MANGE RAM

.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

218

CWP-24828-2018 (O&M)

JAGDEV

.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

218.2

CWP-32181-2018 (O&M)

RAJ KUMAR ETC

.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

219 CWP-25778-2018 (O&M)

HANS RAJ AND OTHERS

.....PETITIONERS

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

219.2 CWP-3659-2019 (O&M)

TARSEM SINGH AND OTHERS

.....PETITIONERS

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

221 CWP – 29162-2018 (O&M)

KAMAL SINGH

.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

222 CWP -30168-2018 (O&M)

PHUL SINGH

.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

230

CWP-9327-2019(O&M)

AZAD SINGH

.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

231

CWP -11914-2019 (O&M)

SANTOSH DEVI

.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

232

CWP-14720-2019 (O&M)

DEVENDER

.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

237

CWP -2595-2020 (O&M)

BHUPENDER AND OTHERS

.....PETITIONERS

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

239CWP-9847-2020 (O&M)

RAMESH KUMAR AND ANR.....PETITIONERS

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

241CWP-12777-2020 (O&M)

BHAJNA.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

244CWP-21397-2020 (O&M)

SOM NATH.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

250CWP-6222-2021 (O&M)

OM PARKASH.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

251 CWP-6993-2021 (O&M)

SATISH KUMAR

.....PETITIONER

Versus

STATE OF HARYANA AND OTHERS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Jaspal Singh Maanipur, Advcoate with
Mr. Joypreet, Advocate
for the petitioner in CWP No. 2158 of 2020 and
CWP-6222-2021.

Mr. R. K. Malik, Senior Advocate with
Mr. Kartikey Chaudhary, Advocate for the petitioners
in CWP No. 24397-2015.

Mr. Tara Chand Dhanwal, Advocate
for the petitioners in CWP-2286-2021,
CWP-2753-2021, CWP-18677-2021,
CWP-2760-2021, [CWP-2767-2021](#).

Mr. A. P. Bhandari, Advocate
for the petitioner in CWP No. 12006 -2022 &
CWP-9335-2017

Mr. Ajay Chaudhary, Advocate,
Ms. Jai Shree Kaushik, Advocate and
Mr. Aryavarat, Advocate for the petitioners
in CWP-6125-2017, CWP-3165-2018, CWP-30168-2018,
CWP-14720-2018 and CWP-3659-2019.

Mr. Ajay Redhu, Advocate for
Mr. Jagjeet Beniwal, Advocate and
Mr. Amarjit Beniwal, Advocate for the petitioners
in CWP No. 2568-2018 and CWP-28241-2017
and CWP-26519-2017.

Mr. Deepak Sonak, Advocate and
Mr. Vikas Sonak, Advocate
for the petitioners in CWP-24505-2018, CWP-24828-2018,
CWP-25778-2018.

Mr. Shalender Mohan, Advocate
for the petitioners in CWP-32181-2018.

Mr. Ramesh Goyat, Advocate and
Mr. Ankur Goyat, Advocate
for the petitioners in CWP-29162-2018.

Mr. Sandeep Parkash Chahar, Advocate
for the petitioner in CWP-9327-2019.

Mr. Ram Niwas Sharma, Advocate
for the petitioner in CWP-11914-2019.

Mr. Surinder Kumar Daaria, Advocate
for the petitioner in CWP -2595-2020/

Mr. Sunil Kumar Bhardwaj, Advocate
for the petitioner in CWP-9847-2020.

Mr. S. K. Verma, Advocate
for the petitioner in CWP-12777-2020, CWP-21397-2020.

Mr. Pankaj Kalia, Advocate for
Mr. Karanvir Singh Khehar, Advocate
for the petitioner in CWP-6993-2021.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

Mr. Tapan Kumar Yadav, DAG, Haryana.

Mr. Harish Nain, AAG, Haryana.

Ms. Vibha Tewari, AAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-4072-CWP-2024, CM-4204-CWP-2024, CM-4231-2024, CM-1939-CWP-2024, CM-1962-CWP-2024, CM-1974-CWP-2024, CM-1944-CWP-2024, CM-1977-CWP-2024, CM-4229-CWP-2024

The present applications are allowed as prayed for.

The main cases are taken up for hearing today itself.

Main case(s):-

1. As all the abovementioned writ petitions involve the same question of law, arising out of similar facts pertaining to the issue of regularization of the services of petitioners, the same are being disposed of by this common order.

2. Certain facts are required to be stated before hand for the correct appreciation of the issue involved in the present bunch of petitions, which are stated as under.

2.1 The grievance of the petitioners in the present bunch of petitions is that they are entitled for regularization of their services under the regularization policy issued by the Government of Haryana on 01.10.2003, copy of which has been appended as Annexure P-2 with CWP No.2158-2020.

2.2 It may be noticed that certain employees similarly situated as the present petitioners had approached this Court by filing **CWP No.2009 of 2016** titled as **Balwinder Singh and others v. State of Haryana and others**, claiming regularization of their services on the ground that they are covered under the terms and conditions of the regularization policy dated 01.10.2003 coupled with the fact that their juniors had already been regularized in service, thereby making them entitled for regularization of their services under the regularization policy dated 01.10.2003 with effect from the date services of their juniors were regularized.

2.3 The said writ petition i.e. CWP No.2009 of 2016 was allowed by the Co-ordinate Bench of this Court on 31.01.2020 wherein it was held that once, the employees who were junior to the petitioners have already been regularized in service under the policy dated 01.10.2003, the petitioners also

have the right to claim the said benefit of regularization of their services and direction was issued to respondent-State to regularize the services of the petitioners in **Balwinder Singh' case (supra)** with effect from the date services of employees junior to the petitioners therein were regularized.

2.4 Against the said judgment of the learned Single Judge, the State of Haryana filed an LPA being ***LPA No. 688 of 2021*** titled as **'State of Haryana and others Vs. Balwinder Singh and others'** which was dismissed by learned Division Bench of this Court vide judgement dated 02.12.2022 upholding the directions given by the learned Single Judge of this Court in the case of **Balwinder Singh (supra)**.

2.5 Feeling aggrieved, against the said decision of learned Division Bench of this Court, the State of Haryana preferred an SLP before the Hon'ble Supreme Court of India being SLP No. 4531 of 2023 titled as **'State of Haryana and others Vs. Balwinder Singh and others'**, which SLP was dismissed vide judgment dated 09.01.2024.

3. In light of the said facts, learned counsel for the petitioners submit that earlier when the present petitions came up for consideration before this Court, the respondent-State had taken the stand that as decision of this Court regularizing the service of similarly situated employees as directed in **Balwinder Singh' case (Supra)** was stayed by the Hon'ble Supreme Court of India in SLP No. 4531 of 2023, therefore no benefit of regularization could have been given till such time the said SLP is decided by the Hon'ble Supreme Court of India. Therefore, learned counsel for the petitioners now contends that as the Hon'ble Supreme Court has dismissed the aforesaid SLP, the petitioners are now also entitled for the regularization of their services as the same relief has already been extended to the similarly

situated employees, who had approached this Court in ***Balwinder Singh's case (supra)***, which judgment has now attained finality.

4. Learned counsel for the petitioners further submits that the services of the petitioners be regularized from the date the services of their juniors have been regularized by the respondent-State, keeping in view the regularization policy dated 01.10.2003.

5. Learned counsel for the respondent-State on the other hand while conceding the factual position narrated herein before, submit that while dismissing the SLP No. 4531 of 2023 filed by the State, the question of law raised therein has been kept open by the Hon'ble Supreme Court of India because of which no benefit of the judgment passed in ***Balwinder Singh's case (supra)*** can be extended to the present petitioners.

6. Learned counsel for the respondent-State further submits that the petitioners herein were not appointed against the regular sanctioned post and they are not working against any regular sanctioned post as of now, hence, the claim of the petitioners for regularization of their services cannot be accepted in the absence of any regular sanctioned post and the question of law on this issue is covered in favour of the State keeping in view the order passed by the Hon'ble Supreme Court of India in **Civil Appeal No. 916 of 2023, titled as 'Vibhuti Shankar Pandey v. The State of Madhya Pradesh and others' decided on 08.02.2023.**

7. Learned counsel for the respondent-State has further placed reliance on the judgment of Hon'ble Supreme Court of India in **Secretary, State of Karnataka and others v. Umadevi and others (2006) 4 SCC 1**, so as to contend that a claim for regularization of services cannot be raised by the employees who have been appointed de hors the rules.

8. In furtherance of this, learned counsel for the respondent-State has also placed reliance upon the judgment of Hon'ble Supreme Court of India in Civil Appeal No. 1875 of 2022, titled as 'Managing Director, Ajmer Vidhyut Vitran Nigam Ltd., Ajmer and another v. Chigga Lal and others', decided on 07.03.2022, wherein it has been held that no parity can be claimed in the matter of regularization of services in different years.

9. Learned counsel for respondent-State has also rebutted the claim of the petitioners with respect of grant of ante dated regularization in parity with the date of regularization granted to juniors of petitioners on the ground that there was no such claim granted by this Hon'ble Court while deciding the case of **Balwinder Singh (Supra)**.

10. Lastly, learned counsel for respondent-State contends that there is delay in approaching this Court for the grant of benefit of ante dated regularization and therefore, the claim of the petitioners is liable to be rejected on this ground also.

11. I have heard learned counsel for the parties and have gone through the record with their able assistance.

12. In the present bunch of petitions, the claim of the petitioners is that they are in service of the respondent-State since about last two decades but their services have either not been regularized under the regularization policy which has been issued by the Government of Haryana even though their claim is covered by the same or their services have been regularized from a date which is later in respect to the date from when services of their juniors were regularized which action of respondent-State has been held bad in the case of **Balwinder Singh (Supra)**.

13. Once, a regularization policy has been issued by the

Government of Haryana for regularization of services of an employee, the same has to be implemented in its entirety qua every employee who is entitled to be considered under the said policy for regularization of his/her services without discrimination between similarly situated employees.

14. It has come on record that some of the employees similarly situated as the present petitioners, who were not considered for regularization of their services, raised their claim before this Court in ***Balwinder Singh's case (Supra)***. A Co-ordinate Bench of this Court allowed the said petition and held that once a regularization policy has been issued by the Government of Haryana and the same has been given effect qua various employees, then the petitioners, who are senior, are also entitled for consideration of regularization of their services under the said policy with effect from the date their juniors have been regularized in service and they cannot be denied the said benefit especially when, the employees junior to them have already been granted the benefit of regularization of services.

15. The said judgment of the Co-ordinate Bench of this Court in ***Balwinder Singh's case (Supra)*** has already been upheld by the Division Bench and even the SLP filed by the State against the same has already been dismissed by the Hon'ble Supreme Court of India.

16. That being the factual position, which has also been noticed by the Hon'ble Supreme Court of India while passing judgment dated 09.01.2024 in SLP No. 4531 of 2023 titled as '**State of Haryana and others Vs. Balwinder Singh and others**', wherein it has also been mentioned that the said benefit has already been extended to a large number of employees, therefore the claim of the present petitioners claiming the same benefits as the petitioners in ***Balwinder Singh's case (supra)*** being similarly situated to

them, cannot be denied the said benefit of regularization.

17. With regards to the argument raised by the learned counsel for the respondent-State that once, the question of law raised by the respondent-State was left open by the Hon'ble Supreme Court of India while passing judgment dated 09.01.2024 in SLP No. 4531 of 2023, the judgment of the Co-ordinate Bench of this Court in **Balwinder Singh's case (supra)** as well as judgment passed by the Division Bench in **LPA-688-2021** titled as '**State of Haryana and others Vs. Balwinder Singh and others**' will lose its significance for granting benefit in terms of the same to the petitioners in the present bunch of petitions, the same cannot be accepted for the reason that the Hon'ble Supreme Court while dismissing SLP No.4531 of 2023 has nowhere stated that the position of law settled by the Co-ordinate Bench of this Court in **Balwinder Singh's case (supra)**, which has further been upheld by the Division Bench is contrary to the law and need not to be followed. Therefore, the relief as granted to the petitioners in **Balwinder Singh's case (supra)** cannot be denied to the similarly situated employees, who are found eligible for regularization of their services under the applicable regularization policy and if the petitioners are able to prove before the authorities concerned that they fulfill the requisites of the concerned regularization policy benefit of which is claimed by them, the respondent-State shall be bound to regularize the services of the said petitioners especially when the benefit claimed has already been extended to the similarly situated employees.

18. Even otherwise, this Court is not deciding the petitions without considering the objections raised by the State qua the benefit being claimed by the petitioners in the present petitions. All the objections being raised by

the respondents so as to object to the claim of the petitioners, are being dealt with in the order and the claim of the petitioner is being decided on merit on the basis of facts and circumstances, settled principles of law coupled with the fact that the similarly situated employees have already been granted the said benefit whether on their own by the respondent- State or under the orders of the Court which have attained finality.

19. It may be noticed that the petitioners are working with the respondents-department for the last more than two decades. Once, the respondents have allowed the petitioners to continue in service on the post on which they were initially appointed, it cannot be said that an employee who is working for a period of two decades, there is no regular work for the post in question.

20. The question with respect to regularization of services of employees who continue in service for decades but are not regularized so as to deny them the service benefit after their retirement has already been settled by the Hon'ble Supreme Court of India in **Civil Appeal No. 6798 of 2019 titled as 'Prem Singh v. State Of Uttar Pradesh and others' decided on 02.09.2019** wherein it has been held as under:-

*“There are some of the employees who have not been regularized in spite of having rendered the services for 30-40 or more years whereas they have been superannuated. As they have worked in the work-charged establishment, not against any particular project, their services ought to have been regularized under the Government instructions and even as per the decision of this Court in **Secretary, State of Karnataka & Ors. v. Uma***

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Devi 2006 (4) SCC 1. This Court in the said decision has laid down that in case services have been rendered for more than ten years without the cover of the Court's order, as one time measure, the services be regularized of such employees. In the facts of the case, those employees who have worked for ten years or more should have been regularized. It would not be proper to regulate them for consideration of regularization as others have been regularised, we direct that their services be treated as a regular one. However, it is made clear that they shall not be entitled to claiming any dues of difference in wages had they been continued in service regularly before attaining the age of superannuation. They shall be entitled to receive the pension as if they have retired from the regular establishment and the services rendered by them right from the day they entered the work-charged establishment shall be counted as qualifying service for purpose of pension. ”

21. A bare perusal of the above reproduction would show that the Hon'ble Supreme Court of India has held that once, an employee has worked for more than a decade, the said employee is entitled for regularization of his/her services even if, the said services have not been regularized up to the date he/she attains the age of superannuation.

22. In the present petitions, the petitioners are claiming the benefit of regularization of their services keeping in view the fact that their claim is covered under the applicable regularization policy coupled with the fact that under the same regularization policy, the employees junior to petitioners

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have already been regularized in service, hence, once the claim of the similarly situated employees in *Balwinder Singh's case (Supra)* so as to regularize their services with effect from the date employees junior to them were granted benefit of regularization of services, the same cannot be denied to the petitioners in the present bunch of petitions when they fulfill all the requisite of the applicable regularization policy.

23. Further, the question with regard to existence of regular sanctioned post for the purpose of regularization while giving benefit of the regularization policies to the employees has already been considered by the respondent-State itself and decision has been taken vide notification dated 21.12.2018 (Annexure P-4 with CWP No.2158 of 2020) wherein it has been mentioned that for the specific purpose of regularizing the services of employees who are covered under regularization policies 17.06.1997, 05.11.1999, 01.10.2003 and 10.02.2004, the administrative department shall create regular posts of diminishing nature so as to adjust such employees whose services have been regularized.

24. Bare reading of the notification dated 21.12.2018 shows that the decision has already been taken that where an employee is entitled for regularization of his/her service under any of the regularization policy, the administrative department will create posts of diminishing nature so as to adjust the employees whose services have been regularized. The said decision dated 21.12.2018, taken at the level of Chief Secretary to Government of Haryana, is reproduced as under: -

MOST URGENT

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Subject Creation of posts for persons regularized under the regularization policies of year 2003-2004.

Will the Additional Chief Secretary to Government, Haryana, Finance Department kindly refer to the subject noted above?

2 It is intimated that vide Government notification No.0.5.R. 13/Const/Art.309/2007, dated 13.4.2007. the regularization policies No GS.R.41/Const./Art. 309/97, G.S.R 101/Const/Art. 309/99, GSR.24/Const/Art 309/2003 and G.S.R. 5/Const/An 309/2004, dated 17.6.1997, 5.11.1999, 1.10.2003 and 10.2.2004 respectively were rescinded. Thereafter, these policies were revived vide Notification No.6/7/2014-IGSI, dated 18.6.2014 by Government.

3 Further in pursuance of Hon'ble High Court interim order dated 6.4.2018 in CWP No. 15887 of 2018 - Purushotam Das Vs State of Haryana wherein matter of creation of diminishing cadre post for persons regularized under 2003-2004 policies No G.S.R.24/Const/Art. 309/2003 dated 1.10.2003 and 10.2.2004 was under consideration with the State Government.

4 The State Government has considered the matter and decided that wherever the Administrative Department / Boards / Corporations / Autonomous Units are regularizing persons under the above mentioned regularization policies, the Administrative Department, with approval of Finance Department, may create some posts of diminishing nature to adjust such employees.

5. The Finance Department is hereby advised to give concurrence for creation of posts of diminishing cadre as and when any Department/Board/Corporation/Autonomous Unit submits a case for creating a post for any employee proposed to be regularized under the regularization policies of 2003 and 2004.

6. The same practice would also be applicable in respect of regularization policies dated 17.6.1997 and 5.11.1999. However,

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payment of the arrears of regular pay scale may be restricted to 38 months prior to the date of actual regularization order and other benefits may be granted to the employees.

Sd/- Superintendent, General Services-I for Chief Secretary to Government Haryana.

The Additional Chief Secretary to Government Haryana, Finance Department.

U.O. No. 6/20/2018-IGSI

Dated, Chandigarh the 21 Dec., 2018

A copy is forwarded to the following for information and necessary action.

25. Hence, the objections being raised by the respondents-State that the petitioners were not appointed against the regular sanctioned post or, there does not exist any regular post so as to regularize the services of the petitioners, is contrary to their own decision dated 21.12.2018 and cannot be accepted so as to deny the petitioners benefit of regularization of their services from the date services of employees junior to them have been regularized.

26. Even otherwise, once an employee has worked for more than a decade and the work of the said post exists, it is the duty of the respondents to create a post so as to allow the said employee to continue in service. Being a welfare State, the State has to take care of its employees rather than taking all kinds of objections so as to defeat the claim of the employees which is otherwise covered under the applicable regularization policy issued by the State itself. Hence, the objections that there is no regular sanctioned post so as to regularize the services of the petitioners cannot be accepted.

27. Further, the said objection of the respondents-State with regard to the ground that there is no regular sanctioned post cannot also be accepted on the ground that in case any junior of the petitioners, has been regularized in service under the same regularization policy, the senior employee will *ipso facto* become entitled for regularization of his/her services from the date the services of his/her junior stood regularized subject to fulfillment of conditions as mentioned in the applicable regularization policy. Hence, once, in **Balwinder Singh' case (Supra)** it has already come on record that services of large number of employees who were junior to their colleagues, were regularized in a pick and choose manner and directions were given to regularize the services of senior employees on that ground itself by this Hon'ble Court while deciding the said case which judgment has attained finality, the respondents now cannot take a plea that the senior employees cannot be regularized in service on the ground of non-availability of the sanctioned post. Once, the services of junior have been regularized the senior employee will *ipso facto* get the right for regularization of his/her services even if the said benefit has to be extended by creating a post for the very purpose.

28. The last objection which has been raised by the learned counsel for respondent-State is that after the judgment passed in ***Uma Devi' s case (Supra)***, no benefit of regularization can be claimed.

29. It may be noticed that once, the Hon'ble Supreme Court of India in **Prem Singh' s case (supra)** after having noticed the position of law settled in ***Uma Devi' s case (Supra)*** has carved out an exception so as to give directions to regularize services of employees who had continued to work for a period of more than 10 years and the said judgment has been brought

into operation so as to give benefits of regularization to employees who have even superannuated without getting their services regularized, therefore, in the light of the same, the contention of the respondents that the benefit of regularization cannot be given in view of the judgment passed in *Uma Devi' s case (supra)* cannot be sustained and is accordingly rejected, moreover, it is a conceded fact that all the petitioners who are seeking regularization of their services have more than 10 years of service to their credit.

30. Furthermore, in case, the respondents are of the view that after the judgment passed in *Uma Devi' s case (supra)*, no benefit of regularization can be claimed by an employee, then the onus to explain the reasons behind issuing the instructions dated 18.06.2014 vide which the regularization policies which were earlier rescinded were revived lies on respondent-State and in regards to the same no argument has been adduced by learned counsel for respondent-State. Once, in the year 2014, the respondent-State took a conscious decision to revive the rescinded regularization policies, then the argument of respondent-State that benefit of regularization cannot be claimed by employees in light of *Uma Devi' s case (Supra)* cannot be sustained especially in view of the fact that the decision to revive the rescinded regularization policies was taken after passing of judgment in *Uma Devi' s case (Supra)* thereby giving right to claim regularization to employees.

31. With regard to the judgment passed in *Vibhuti Shankar Pandey' s case (Supra)*, which has been relied by the respondent-State herein above, the same cannot be made applicable in the present case. In the

Judgment passed in *Vibhuti Shankar Pandey' s case (Supra)*, there were no

such claim that the similarly situated employees have been regularized in services, as, in **Vibhuti Shankar Pandey's case (Supra)**, the claim of regularization was made despite the fact that the employees did not fulfill the qualification required for appointment on the post in question, which fact is missing in the present case. Also as per conceded facts, in the present case for the purpose of regularizing services of employees who are similarly situated to the petitioners, directions have been given by co-ordinate bench of this Court in **Balwinder Singh's case (Supra)**, and the said directions have already been upheld up to the Hon'ble Supreme Court of India. Rather some of the similarly situated employees have been granted the benefit of regularization of their services from the date services of employees junior to them were regularized even before the said SLP was dismissed by Hon'ble Supreme Court of India which fact is clear from the order dated 09.01.2024 passed by the Hon'ble Supreme Court of India.

32. With regard to the argument of grant of ante dated regularization, it is noticed that while deciding the case of **Balwinder Singh (Supra)**, the learned Co-ordinate Bench has already given directions for regularizing the services of the petitioners therein from the date services of their juniors were regularized and the same benefit cannot be declined to petitioners in the present bunch of petitions who are similarly situated in case the petitioners are able to establish before the authorities that their juniors have been regularized prior to them.

33. With respect to the argument of learned counsel for the respondent-State pertaining to the claim of petitioners being barred on account of delay, it may be noticed that the case of the similarly situated employees have already been allowed by the Coordinate Bench of this Court

in **Balwinder Singh (supra)**, which judgment has already been upheld by the Division Bench of this Court and even the SLP has been dismissed on 09.01.2024. Once, the actual benefit to the similarly situated employees is yet to be extended by the respondents in terms of **Balwinder Singh' s case (Supra)**, it cannot be said that similar claim raised by the petitioners is time barred.

34. Even otherwise, as per the judgment of the Division Bench of this Court in CWP No. 4382 of 2002 titled as **Satbir Singh v. State of Haryana, decided on 21.03.2002** wherein the similarly situated employees have already been granted the benefit, it has been held that being a welfare State, the same should be allowed in favour of all the similarly situated employees. Once, the benefit is yet to be extended to the similarly situated employees, who have succeeded up to the Hon'ble Supreme Court of India, denying the said benefit to the petitioners on the ground of delay will be too harsh hence, the said plea of the respondents cannot be accepted and is hereby rejected.

35. Hence, in light of the above mentioned facts and position of law, the petitioners have a right to seek regularization of their services with effect from the date benefit of regularization of services has been extended to an employee junior to them in case, the petitioners fulfill the terms and conditions of the applicable regularization policy which is in force and the respondent -State is directed to regularize their service in case the petitioners fulfills the qualification/conditions as mentioned in the applicable regularization policy.

36. With respect to the condition of having three years of service with 240 days of work in each year as on the date an employee shall become

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eligible to claim regularization of his/her services in terms of the regularization policy dated 01.10.2003 or any other regularization policy, the services of the employee from the date of his/her initial appointment shall be considered for the purpose of qualifying the said condition. In case, the petitioners has worked for 240 days in any of the 3 years upto the date of regularization policy, said petitioners will be considered eligible under the policy in which the benefit has been claimed.

37. Further, in case, any employee junior to the petitioners, has been regularized in service, which fact in case is established before the respondent authorities by the petitioners, the said petitioners will get the right of regularization of their services from the date when the services of the employee junior to them has been regularized if the said petitioners fulfills all the requisite of relevant regularization policy and respondent-State shall fix the date of regularization of such employee from the date his/her junior was regularized in service as has been directed in the case of ***Balwinder Singh (Supra)***.

38. It is further directed that in case the respondent-State does not have any sanctioned post so as to regularize the services of the petitioners the respondent-State shall create appropriate posts which can be of diminishing nature or otherwise as may be deemed appropriate by the respondent-State in light of position of law observed herein before, keeping in view the decision of the respondent-State dated 21.12.2018.

39. The Respondent-State is hereby directed to examine each and every case of petitioners in terms of the directions given herein before and pass appropriate speaking order. In case, the respondent-State is of the view that any petitioner does not qualify any condition of the applicable

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regularization policy, the respondent-State shall pass order giving details as to how the petitioner does not qualify the applicable condition in terms of the regularization policy under which the petitioner raised his/her claim. In case it is found that there is no difference between the petitioner and his/her junior whose services had been regularized prior in time, the respondent shall pass an order fixing the date regularizing the services of such petitioner in terms of the directions given herein before i.e. from the date services of the employee junior to the petitioner were regularized.

40. At this stage, learned counsel for the petitioners has raised a plea that in some cases on the ground that the petitioners have been appointed prior to 1996, their claims has been rejected which condition has already been set aside by a co-ordinate bench of this Hon'ble Court in CWP No.1582 of 2018 titled as '**Gobind v. State of Haryana and others**', **decided on 13.03.2019.**

41. Learned counsel for the respondent-State does not dispute the said factum and submits that no claim will be rejected by the respondent-State on the ground that the petitioners claiming benefit of regularization were not appointed prior to the year 1996 as per the aforesaid judgment.

42. Let consideration as directed herein above be completed within the period of four months from the date of receipt of certified copy of this order.

43. In view of the above, the writ petitions are disposed of in the terms and conditions mentioned herein before. Let the respondent-State pass appropriate speaking order as directed herein before. In case, any of the petitioner is found entitled for regularization/retrospective regularization of services from the date employees junior to him/her has been regularized, they

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will be granted the said date of regularization otherwise due reasons be mentioned in the speaking order keeping in mind the directions given by the Court herein before so as to decide the eligibility of each petitioners qua their respective claims. Further in case any of the petitioners is found entitled for regularization of his services retrospectively the said benefit shall be given notionally, no arrears will be granted to the petitioners up to the date of filing of the respective petitions. The petitioners will be entitled for fixing of their salaries from the date of regularization notionally and the arrears will only be extended from the date of filing of their respective petitions before this Court and if any of the petitioners has already retired, his/her pensionary benefits will also be fixed/revised and arrears will also be extended from the date of filing the petition by the said petitioner.

44. A photocopy of this order be placed on the files of connected cases.

45. Pending miscellaneous application, if any, shall also stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

13.03.2024

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Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*