IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

253 (12 cases)

CWP-9174-2018 (O&M)
Date of Decision :22.01.2025

Ravisan and others **...Petitioners**

Versus

State of Punjab and others **....Respondents**

CWP-1055-2019 (O&M)

Balvir Kaur **...Petitioner**

Versus

State of Punjab and others **....Respondents**

CWP-11321-2018 (O&M)]

Kanwaljit Kaur and others **...Petitioners**

Versus

State of Punjab and others **....Respondents**

CWP-12851-2018 (O&M)

Yogesh Arora and others **...Petitioners**

Versus

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State of Punjab and others ....Respondents

CWP-17966-2019

Rohin Gandhi and others ...Petitioners

Versus

State of Punjab and others ....Respondents

CWP-2178-2019

Arun Kumar and others ...Petitioners

Versus

State of Punjab and others ....Respondents

CWP-25592-2018

Jaspreet Kaur ...Petitioner

Versus

State of Punjab and others ....Respondents

CWP-25593-2018 (O&M)

Jai Verdhan Sharma ...Petitioner

Versus

State of Punjab and others ....Respondents

CWP-32212-2018 (O&M)

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Mandeep Kaur and others **...Petitioners**

Versus

State of Punjab and others **....Respondents**

CWP-35206-2019 (O&M)

Santosh Kumari **...Petitioner**

Versus

State of Punjab and others **....Respondents**

CWP-36376-2019

Gaurav Arora **...Petitioner**

Versus

State of Punjab and others **....Respondents**

CWP-24714-2018 (O&M)

Ranju Sharma **...Petitioner**

Versus

State of Punjab and others **....Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. V.K. Shukla, Advocate with
Mr. Ashish Gupta, Advocate for the petitioners
in CWP-9174 & 32212 of 2018.

Mr. Anshul Pareek, Advocate for

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Ms. Preeti Grover, Advocate for petitioners
in CWP-12851-2018 & CWP-17966-2019.

Mr. Pawan Kumar, Advocate for
Mr. Saurabh Arora, Advocate for the petitioners
in CWP-11321-2018.

Ms. Jashandeep Kaur, Advocate for
Mr. Akhilesh Vyas, Advocate for the petitioner
in CWP-35206-2019.

Mr. M.S. Sachdev, Advocate for the petitioners
in CWP-2178-2019 (joined through Video conferencing).

Mr. Harbans Lal Sharma, Advocate for the petitioner
in CWP-1055-2019.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Anurag Goyal, Advocate for respondents No.2 & 3
in CWP-35206 & 36376-2019.

* * *

Harsimran Singh Sethi, J. (Oral)

1. By this common order, above mentioned writ petitions are being disposed of as all the writ petitions involve the same question of law on similar facts.

2. Learned counsel for the petitioner(s) submits that though, in the present bunch of petitions, the claim has been raised for the grant of benefit of regularization of services of the petitioners but as, as of now, the petitioners are working on their respective post and that too without there being any interim order by this Court, which factually shows that work of the post on which the petitioners are working still exists and keeping in view the said fact, the petitioners be allowed to continue in service on the post on which they are working till the work of the said post exists subject to their satisfactory work and conduct. Further prayer of the petitioners is that they

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be not replaced with another set of temporary employees on the same terms and conditions so as to cause any prejudice to them.

3. Learned counsel for the respondent-Punjab and Haryana High Court has placed reliance upon the judgment of the Coordinate Bench of this Court in somewhat similar circumstances seeking benefit of regularization in ***CWP-34402-2019, tiled as Bikramjit Singh and others vs. State of Punjab and others, decided on 26.11.201***9, benefit of regularization has already been rejected.

4. Learned counsel for the petitioners has not been able to rebut that the similar prayer has already been rejected qua the grant of the benefit of regularization of services hence, prayer of the petitioners is that they be allowed to continue in service.

5. Keeping in view the fact that an assertion has been made that the petitioners are working on their respective posts, it is directed that wherever the petitioners are still performing the duties of the post in question and the work of the said post exists, subject to the availability of the work henceforth as well as satisfactory work and conduct of the petitioners, the petitioners be allowed to discharge the duties of the post on which they are working till the work of the said post exists with the particular Sessions Division where they are working.

6. Further keeping in view the settled principle of law that the temporary employee cannot be replaced by another set of temporary employee, the petitioners will not be replaced by another set of temporary employee on the same terms and conditions on which the petitioners are working.

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7. It may be noticed that the petitioners can be replaced by the regular employees. It may be further noticed that the direction to allow the petitioners to continue in service is only qua the petitioners, who are actually working as of now and in the case of the petitioners whose services have already been terminated, this order will not come to their rescue so as to claim reinstatement to continue in service The Sessions Division is not precluded to consider claim of such employees who are not working as of now in case, any such temporary appointment is to be made henceforth keeping in view the experience which has been gained by such employee.

8. Qua the argument of the learned counsel for the petitioner in ***CWP-1055-2019 titled as Balvir Kaur vs. State of Punjab and others***, that the said petitioner-Balvir Kaur was on maternity leave, which was curtailed while terminating her services, it may be noticed that once an employee was on maternity leave, the said period of maternity leave could not have been curtailed so as to terminate the service of an employee and the services of the employee could have been dispensed with upon her joining after availing the benefit of maternity leave. No valid justification has come from the respondents so as to curtail the period of maternity leave in order to terminate the services of petitioner-Balvir Kaur, hence, the petitioner-Balvir Kaur will be entitled to the salary for the period she was granted maternity leave and the order of termination of her services will be effective from the date she completed the said period. The respondents are hereby directed to pay salary to petitioner-Balvir Kaur for the maternity period for which, such leave was already sanctioned by the competent authority, which was

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wrongly curtailed to terminate the services of petitioner-Balvir Kaur. Let the arrears of salary to Balvir Kaur be released within a period of 08 weeks from the date of receipt of the copy of this order.

9. No other argument has been raised.

10. Present petitions are disposed of in above terms.

10. Civil miscellaneous application pending, if any, is also disposed of.

11. Photocopy of this order be placed on the file of connected cases.

January 22, 2025 **(HARSIMRAN SINGH SETHI)**
aarti **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No

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