



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(220)

CWP-16712-2017 (O&M)

Date of Decision : 09.07.2025

Kurukshetra University, Kurukshetra and others

...Petitioners

Versus

Workers, through Shri Sushil Kumar, Vice President Hostel Mess
Workers Union (Regd.) and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amarjit Singh Virk, Advocate for the petitioners.

Mr. Balbir Singh Saini, Advocate for respondent No. 1.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the Award dated 19.08.2010 (Annexure P-7) as well as Award dated 31.03.2017 (Annexure P-9) by which findings have been recorded by the Labour Court that there exists master and servant relationship between the workers and the University and further that keeping in view the fact that the workmen are working for more than two to three decades, they are entitled for regularization of their services as well.

2. Learned counsel appearing on behalf of the petitioner-University argues that there is no master and servant relationship between the petitioner-University and the workmen as they were working in a Cooperative Mess being maintained with the hostels of the University. Learned counsel for the petitioner-University submits that the said finding



which has been recorded by the Labour Court is incorrect and cannot be sustained and the consequent direction given to regularize the services of such workmen, is also liable to be set-aside.

3. Learned counsel appearing on behalf of the respondent No. 1-workmen, on the other hand, submits that the workmen had raised the claim for regularization of their services on the ground that there exists master and servant relationship between the petitioner and the workmen and vide Award dated 19.08.2010 (Annexure P-7), a categorical finding was recorded that there exists master and servant relationship between the petitioner-University and the workmen but, with regard to the grant of benefit of regularization, the said benefit was not granted.

4. Learned counsel for the respondent No. 1-workmen submits that though the findings were recorded qua the existence of master and servant relationship, the same was accepted by the petitioner-University and the said Award was not challenged but as, the workmen were not granted the benefit of regularization, the said Award was challenged by the workmen qua the non-grant of benefit of regularization by filing CWP No. 4958 of 2011, wherein, this Court has recorded a categorical finding that once, master and servant relationship has been established, the claim for the grant of regularization should have also been considered by the Labour Court and the matter was remanded back on the said issue and ultimately, keeping in view the fact that the workmen were working for more than two and half decades with the petitioner, the benefit of regularization was also extended hence, once the benefit of regularization has been extended to the workmen, the same cannot be challenged, especially when the Award which decided the



master and servant relationship was never challenged by the petitioner-University upto the date of filing of the present writ petition hence, the writ petition may kindly be dismissed and the Award which has been passed in favour of the workmen proving the master and servant relationship as well as for regularization of their services may kindly be upheld.

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

6. It is a matter of fact that the respondent-workmen initiated proceedings before the Labour Court to claim regularization by pleading master and servant relationship though, the University opposed the said view of the workmen that there exists a master and servant relationship between the petitioner-University and the workmen but a categorical finding has been recorded by the Labour Court holding that the University is the employer of the respondent-workmen. Paragraph 12 of the Award dated 19.08.2010 (Annexure P-7) is clear in this regard where the findings have been recorded.

The said paragraph is reproduced hereunder for the ready reference :-

“12. Having heard both the parties at length and perusing the material placed on the record, in the considered view of this court there is substance in the arguments advanced by the Ld. Authorized representative for the petitioners-workmen, the perusal of documents i.e. transfer orders, appointment letter, notification issued, office orders and hostels, rules and regularization issued by the Kurukshetra University, Kurukshetra, clearly demonstrate and establishes the control of University on these workers. Even otherwise, the hostels being run by the University having a mess facility to provide food to the residents of the hostels cannot be said to be merely a welfare



service to the students rather is legal and statutory obligations on the University thereby providing essential requirement of food to the students staying in the hostels of the University. However, it may be through mess workers being controlled by the mess committee or through anybody cannot be denied to be having no relationship with the University, hence are the workers working under the respondents-management.”

7. The University despite suffering the said findings qua the existence of master and servant relationship, did not challenge the said Award. It was the workers who approached this Court to seek the remaining relief of regularization and in their writ petition, again the finding was recorded by the Co-ordinate Bench of this Court that there exists master and servant relationship between the petitioner and the workmen has gone unrebutted. That being so, the findings approved by this Court as well, especially when the University chose not to challenge the said findings recorded in the Award passed by the Labour Court at the relevant time.

8. Upon remanding the case back on the direction of this Court to decide the claim of regularization, the Award has been passed by the Labour Court that the workers are working with the petitioner-University for number of years hence, it becomes the duty of the University to regularize their service in view of the Award dated 31.03.2017 (Annexure P-9).

9. Feeling aggrieved against the Award dated 31.03.2017 (Annexure P-9) by which the directions were given for regularization, the University chose to challenge both the Awards in order to undermine the findings recorded by the Labour Court that there exists master and servant



relationship so that the grant of benefit of regularization could also be challenged.

10. The issue is to be seen from another angle. The workers are working with the University since the year 1985 onwards. They have worked for 40 years with the petitioner-University. Once, there is a four decade old master and servant relationship between the member of the respondent-Union, denying the benefit of regularization only on the ground that there does not exists any post, cannot be accepted.

11. The said issue has to be seen in the light of the judgment of the Hon'ble Supreme Court of India in ***Secretary, State of Karnataka and others Vs. Uma Devi***, 2006 (4) SCCC 1, wherein, it has been held that where an employee has completed ten years of service, he/she is entitled for regularization of his/her services. The said judgment has been further interpreted by the Hon'ble Supreme Court of India in Civil Appeal No. 6798 of 2019 titled as ***Prem Singh Vs. State of Uttar Pradesh and others***, on 02.09.2019, wherein, it has been held that where an employee, who has worked for more than two decades and has even retired without regularization, should be treated as a regular employee for the purpose of pensionary benefits. The relevant paragraph 32 of the said judgment is as under :-

“32. The question arises whether the imposition of rider that such service to be counted has to be rendered in-between two spells of temporary or temporary and permanent service is legal and proper. We find that once regularization had been made on vacant posts, though the employee had not served prior to that on temporary basis, considering the nature of



appointment, though it was not a regular appointment it was made on monthly salary and thereafter in the pay scale of work-charged establishment the efficiency bar was permitted to be crossed. It would be highly discriminatory and irrational because of the rider contained in Note to Rule 3(8) of 1961 Rules, not to count such service particularly, when it can be counted, in case such service is sandwiched between two temporary or in-between temporary and permanent services. There is no rhyme or reason not to count the service of work-charged period in case it has been rendered before regularization. In our opinion, an impermissible classification has been made under Rule 3(8). It would be highly unjust, impermissible and irrational to deprive such employees benefit of the qualifying service. Service of work-charged period remains the same for all the employees, once it is to be counted for one class, it has to be counted for all to prevent discrimination. The classification cannot be done on the irrational basis and when respondents are themselves counting period spent in such service, it would be highly discriminatory not to count the service on the basis of flimsy classification. The rider put on that work-charged service should have preceded by temporary capacity is discriminatory and irrational and creates an impermissible classification.”

12. Further, in the recent judgment of the Hon’ble Supreme Court of India, it has been held that the employer has to be an model employer so as to take care of the employee who has been working for decades. In Civil Appeal No. 14831 of 2024 titled as **Jaggo Vs. Union of India**, decided on 20.12.2024, the Hon’ble Supreme Court of India gave direction to regularize the service by creating the post in order to regularize such employees in service.



13. Keeping in view the settled principle of law noticed here-in-before, coupled with the facts of the present case, where the Members of respondent-workers Union have been working for more than four decades with the petitioner-University, the grant of benefit of regularization cannot be upset merely on the assertion of the petitioner that there does not exist post to regularize the service. Once, the law envisages the entitlement of the said workers, it is incumbent upon the University to create post so as to give the benefit of regularization to the respondent-workmen.

14. Keeping in view the totality of the circumstances, no ground is made out for any interference by this Court in the present petition.

15. Dismissed.

16. Pending miscellaneous application, if any, also stands disposed of.

July 09, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No