

CWP-8912-2016 & connected cases 2

(6)

CWP-10729-2022

Baljeet Singh

.. Petitioner

Versus

State of Punjab and others

.. Respondents

(7)

CWP-10805-2022

Lokender Singh and others

.. Petitioners

Versus

State of Haryana and others

.. Respondents

(8)

CWP-10814-2022 (O&M)

Thomas and others

.. Petitioners

Versus

Punjab and Haryana High Court through its Registrar and another

.. Respondents

(9)

CWP-11074-2022

Gagandeep Singh

.. Petitioner

Versus

State of Punjab and others

.. Respondents

(10)

CWP-11484-2022

Pardeep Kumar

.. Petitioner

Versus

State of Punjab and others

.. Respondents

(11)

CWP-11509-2022

Ram Chand

.. Petitioner

Versus

State of Punjab and others

.. Respondents

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(12)	CWP-11519-2022	
Vinod Kumar		.. Petitioner
	Versus	
State of Punjab and others		.. Respondents
(13)	CWP-11869-2022	
Rakesh Kumar		.. Petitioner
	Versus	
State of Punjab and others		.. Respondents
(14)	CWP-11915-2022	
Satvir Singh		.. Petitioner
	Versus	
State of Punjab and others		.. Respondents
(15)	CWP-11994-2022	
Sunny Kumar and others		.. Petitioner
	Versus	
Punjab and Haryana High Court and another		.. Respondents
(16)	CWP-12010-2022	
Ravi Pal and others		.. Petitioners
	Versus	
State of Punjab and others		.. Respondents
(17)	CWP-13458-2022	
Shri Ram and others		.. Petitioners
	Versus	
Punjab and Haryana High Court and another		.. Respondents

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(30) CWP-23490-2022

Hardeep Kaur and others .. Petitioners

Versus

State of Punjab and others .. Respondents

(31) CWP-26475-2022

Gajender Singh and others .. Petitioners

Versus

Punjab and Haryana High Court and another .. Respondents

(32) CWP-3624-2023

Jatinder Kumar .. Petitioner

Versus

Punjab and Haryana High Court, Chd and another .. Respondents

(33) CWP-5744-2022

Arjun Singh and others .. Petitioners

Versus

Union of India and others .. Respondents

(34) CWP-13498-2022

Jiwan Kumar and others .. Petitioners

Versus

State of Punjab and others .. Respondents

(35) CWP-9177-2022

Ram Parkash and others .. Petitioners

Versus

The Registrar General, High Court of Punjab and Haryana and others .. Respondents

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(42)	CWP-9193-2016	
Hisham Singh		.. Petitioner
	Versus	
Union of India and others		.. Respondents
(43)	CWP-9430-2023	
Arun and others		.. Petitioners
	Versus	
Union of India and others		.. Respondents
(44)	CWP-26362-2023 (O&M)	
Surender and others		.. Petitioners
	Versus	
State of Haryana and others		.. Respondents
(45)	CWP-21741-2023	
Satpal and others		.. Petitioners
	Versus	
Punjab and Haryana High Court and another		.. Respondents
(46)	CWP-18614-2022	
Mohit Kumar and others		.. Petitioners
	Versus	
Punjab and Haryana High Court and another		.. Respondents
(47)	CWP-21518-2023	
Jagtar Singh		.. Petitioner
	Versus	
State of Punjab and others		.. Respondents



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(48) CWP-21540-2023

Parkash Singh .. Petitioner

Versus

State of Punjab and others .. Respondents

(49) CWP-3581-2024

Parveen Singh .. Petitioner

Versus

Union of India and others .. Respondents

(50) CWP-20334-2024 (O&M)

Sandeep Kumar and others .. Petitioners

Versus

State of Punjab and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr.Arjun Partap Atma Ram, Advocate, with
 Mr. Sumbhav Parmar, Advocate, for the petitioners
 in CWP-8912-2016, 5744-2022, 9430-2023;

 Mr. Amit Singh Sethi, Advocate
 in CWP-4494-2022, 8895 & 5285-2017, 3581-2024;

 Mr. Manan Bhardwaj, Advocate, for the petitioners
 in CWP-12010-2023.

 Dr. Rau P.S. Girwar, Advocate, with
 Ms. Archana Puhanian, Advocate, and
 Mr. K.T. Rau, Advocate, for the petitioners
 in CWP-14475-2022.

 Ms. Harmeet Kaur Chanan, Advocate, for the petitioners
 in CWP-13551, 14346, 8365 of 2022.

 Mr. Amit Singh Sethi, Advocate, with
 Ms. Shira Mehta, Advocate, for the petitioners.

 Mr. Satyavir Singh Yadav, Advocate, for the petitioners
 in CWP-10805-2022.

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Ms. Madhu Bala, Advocate and
Ms. Anjali, Advocate, for
Mr. Jagmeet Singh Moudgil, Advocate for the petitioner(s)
in CWP-10729, 11074, 11484, 11509, 11519, 11869 & 1915-
2022;

Mr. Jawahar Lal Goyal, Advocate, for the petitioners
in CWP-6183-2020;

Mr. Ranwant Sangha, Advocate, for the petitioners
in CWP-10258-2022.

Mr. B.S. Tewatia, Advocate, for the petitioners
in CWP-22326-2022, CWP-26475-2022.

Mr. Munish Kumar Garg, Advocate, and
Mr. Vikas Mehra, Advocate and
Ms. Sakshi Tanwar, Advocate, for the petitioners
in CWP-17761-2022 & CWP-26362-2023;

Mr. Navdeep Monga, Advocate, for the petitioners
in CWP-3624-2023;

Mr. Vishwajeet, Advocate, for the petitioners
in CWP-21741-2023;

Mr. Pranav Chamoli, Advocate, for the petitioners
in CWP-16374 & 22830-2022;

Mr. Abhishek Singh, Advocate, for the petitioners
in CWP-5909, 16228, 8306 & 13458-2022;

Mr. Ramdeep Partap Singh, Advocate, for the petitioners
in CWP-10814 & 11994-2022;

Mr. Vijay Lath, Advocate and
Mr. Naveen Sharma, Advocate, for the petitioners
in CWP-23490-2022;

Mr. V.K. Shukla, Advocate, and
Mr. Ashish Gupta, Advocate for the petitioners
in CWP-13498-2022 and CWP-14615-2022;

Mr. Sarthak Gupta, Advocate, for the petitioners
in CWP-9531, 9177 & 10633-2022;

Mr. Munfaid Khan, Advocate, for the petitioners
in CWP-18614-2022;

Mr. Munish Bhardwaj, Advocate, for the petitioners
in CWP-20334-2024;

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None for the petitioner(s) in the remaining matters.

Mr. Naveen Singh Panwar, DAG, Haryana.

Mr. T.P.S. Chawla, Sr. DAG, Punjab, with
Mr. Solomon Partap Singh, AAG, Punjab.

Mr. Kanwal Goyal, Advocate, for the respondent-High Court
in CWP-10258 & 4494-2022;
for respondents no.2 and 3
in CWP-11074, 11869, 11484, 16374, 13498 & 9531-2022;
for respondents no.2 & 4 in CWP-12010, 6183 & 3581-2024;
for respondent no.2 in CWP-19839-2022;

Mr. B.S. Khehar, Advocate
for respondent no.1 in CWP-10814 & 26475-2022;
for respondents in CWP-17368 & 22326-2022;
for respondents no.2 and 3 in CWP-14615, 11915 & 16473-
2022
for respondents no.3 and 4 in CWP-14475-2022 and
for respondents no.1 and 2 in CWP-11994 & 18614-2022.

Ms. Shubreet Kaur, Advocate for respondent(s)-High Court
in CWP-5744, 10805, 14346 & 16228-2022 and CWP-21518 &
21540-2023.

Ms. Ashima Mor, Advocate, for respondents no.2 and 3
in CWP-11509-2022, 11519-2022, 10633-2022, 9177-2022,
22830-2022 & 10729-2022.

Mr. Satya Pal Jain, Additional Solicitor General of India
through V.C.) with
Ms. Saigeeta Srivastava, Sr. Panel Counsel and
Mr. Shobit Phutela, Advocate, and
Mr. Yashdeep Shah, Advocate,
for respondents no.1 to 3 in CWP-9430-2023.

Ms. Sonia Sharma, Advocate, for the respondents
in CWP-5909, 8306, 8365, 21741 of 2023 and
for respondents no.3 and 4 in CWP-17761-2022 & CWP-
26362-2023.

Mr. Pankaj Gupta, Sr. Panel Counsel
for UOI-respondent no.1, 2 & 3
in CWP-5744-2022.

Ms. Madhu Dayal, Advocate and
Mr. Mayank Sharma, Advocate,
for respondent-UT in CWP-5744-2022 and
for respondent-UT in CWP-6183-2020.

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Mr. Aman Kumar, Advocate, for
Mr. Jaivir S. Chandail, Addl. Standing Counsel
for respondent no.3 in CWP-8895 & 5285-2017.

Mr. Parminder Singh Kanwar, Addl. Standing Counsel
with Mr. Ankit Midha, Advocate. for U.T. Chandigarh
in CWP-9430-2023 and 3581-2024.

Ms. Savita Saxena, Advocate
for respondent Nos.5 and 6 in CWP-9430-2023;

Mr. Rohit Kapoor, Advocate
for respondent Nos.5 and 6 in CWP-8912-2016 and
CWP-9193-2016 and for respondent nos.2 and
4 in CWP-8895-2017 and CWP-5285-2017;

Mr. Balwan Singh, Advocate, for
Mr. Deepak Kundu, Advocate
for respondent No.6 in CWP-8895-2017;

Ms. Sukriti Gupta, Advocate for respondent Nos.2 and 3
in CWP-23490-2022 and for respondents in CWP-3624- 2023;

Mr. Ranjit Singh Kalra, Advocate for respondent-High Court
in CWP-13458 & 13551-2022;

Mr. S.K. Sharma, Senior Panel Counsel, Advocate
for respondent No.1-UOI in CWP-8912-2016, 5285-2017,
6183-2020, 4494-2022, 9193-2016 and 3581-2024;

Ms. Supriya Garg, Advocate for respondent Nos.2 & 3 in
CWP-20334-2024.

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, 50 writ petitions, details of which have been given in the heading are being disposed of as all these petitions involve the same question of law arising out of similar facts.

2. In the present bunch of petitions, grievance is being raised by the petitioners who are working in the District Courts in U.T. Chandigarh, State of Punjab as well as State of Haryana. The petitioners are working on class III and IV post as of now after they were recruited by the various Sessions Division on their respective posts.

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3. It is a conceded fact between the parties that the appointments of petitioners were made on contractual basis in pursuance the respective advertisement under which they were selected. The petitioners participated and got selected and were appointed on said posts on which posts they are working as of now on temporary basis as per the terms stipulated in the respective advertisement under which they were appointed.

4. The grievance raised in the present petitions by the petitioners who are working in Session Division U.T. Chandigarh is that their services are not being regularized despite the fact that they have sufficiently long service to their credit and as of now, they have become over age and cannot compete for any other Government job but the respondents without considering the said fact, have never entertained their claim for regularization except when there is intervention by this Court. The prayer of the petitioners who are working in the Session Division, U.T. Chandigarh is that as benefit of regularization has been given to certain similarly situated employees, the same benefit be extended to them also so as to avoid any discrimination between the similarly situated employees and the petitioners.

5. Upon notice of motion, learned counsel for the Session Division, U.T. Chandigarh has appeared and has stated that there is a constraint keeping in view the non-availability of regular vacancies in the cadre in which the petitioners are working. It is further submitted that the employees who though were recruited on contractual basis keeping in view their inter se seniority, coupled with the availability of the regular posts in the respective cadre, the claim of the petitioners for regularization has

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already been considered and whosoever was found eligible to hold the post keeping in view the Rules governing the service qua the said cadre, their services have been regularized against the available permanent posts.

6. Learned counsel appearing on behalf of the respondent-U.T. Chandigarh submits that as of now, there are no permanent posts available so as to regularize the services of the employees who are still working and the requisition has already been sent to the Government of India for creation of more posts and as and when the said request is accepted, appropriate action qua the claim of the petitioners qua regularization of their services will be taken, keeping in mind the action already taken qua the similarly situated employees who were senior to the petitioners in the same cadre having similar claim.

7. Learned counsel for the respondent- U.T. Chandigarh further submits that appropriate direction be given to the Union of India so as to finalize the consideration qua the creation of the posts which proposal has already been sent so that the work in the Session Division, U.T. Chandigarh does not suffer and the employees should also get their dues which they are entitled for as per law.

8. Mr. Satya Pal Jain, learned Additional Solicitor General of India, submits that as of now, a request for creation of 48 posts of the ancillary staff in the Session Division, Chandigarh has been received and is pending consideration. Learned Additional Solicitor General of India further submits that as per the information received from the Ministry of Law and Justice, Government of India, dated 22.01.2025, the matter is still under active consideration of Government of India.

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9. Learned Additional Solicitor General of India further submits that in case, there is any other proposal with the U.T. Chandigarh for creation of more posts, they have no objection to consider the same in accordance with law but the same should reach them at the earliest so that the same should also be considered along with the proposal of 48 posts, which is already pending consideration with them.

10. Keeping in view the above mentioned facts qua the grievance being raised by employees who are working in the Session Division, Chandigarh qua regularization of their services, the same can only be finalized in case, there are sufficient number of permanent posts available for considering their claim for regularization. As the proposal of creation of 48 ancillary posts is pending consideration with the Government of India, the Government of India is directed that as the employees have been working for a sufficiently long time but still their future is not secured as of now and the same is dependent upon the creation of the posts and the matter is pending for the last about six to seven years, appropriate decision with regard to the creation of 48 ancillary posts be decided as expeditiously as possible but not later than four months from the date of receipt of copy of this order.

11. The U.T. Chandigarh as well as Punjab and Haryana High Court, Chandigarh are requested to examine the requirement of more posts in case needed for smooth functioning of Court in Session Division U.T. Chandigarh and the said requirement should also be placed before the Union of India within a period of one month from today. In case, any further request is received, the Department of Law and Justice, Government

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of India is requested to examine the said request also.

12. It may be noticed that in case, the decision is taken qua 48 ancillary posts, the said decision be released to the U.T., Chandigarh and be not kept pending so as to be decided together with the additional proposal so that no prejudice is caused to the employees who are waiting for relief, which has already been extended to their colleagues, who were similarly situated. Competent Authority in the Session Division U.T., Chandigarh is directed that as and when additional posts are created, claim of the employees working in the respective cadre wherein additional posts become available, their claim for regularization be considered as done in the case of similarly situated employees within a period of three months from the date posts become available in the respective cadres.

13. Keeping in view the fact that there is no adverse report qua the working of the employees who are still working on temporary basis in the Session Division, U.T. Chandigarh, the District and Sessions Judge, U.T. Chandigarh is requested to allow them to continue in service till the work of the post against which they are working exist subject to their satisfactory work and conduct. Further, they will not be replaced by another set of contractual employees on the same terms and conditions on which they are already working keeping in view the settled principle of law that the contractual employees cannot be replaced by another set of contractual employees especially in the present case, when the appointment was made after due advertisement.

14. Now, with regard to the grievance being raised by the employees who are working in the various Session Division in the State of

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Punjab as well as in the State of Haryana, that they also have sufficiently long service to their credit and their claim for regularization needs to be considered. Further grievance of the employees i.e. petitioners herein, is that their services are being terminated and the same posts are being filled by another set of contractual employees through the outsourcing agency, which is causing prejudice to the petitioners hence, once the work exists and the petitioners are already working, the petitioners should be allowed to continue in service.

15. Learned counsel appearing on behalf of the various Session Divisions in the State of Punjab and Haryana submits that a decision was taken at the highest level to outsource the services of certain cadres for the smooth functioning of the Sessions Division concerned.

16. Learned counsel for the respondents submits that the services of the petitioners are only being shifted to the outsourcing scheme which has been brought into operation in various Session Divisions in the State of Punjab and Haryana hence, the employees who intend to work through the outsourcing agency, will be accommodated by the various contractors, who have been given the contract to supply the workforce hence, the argument which is being raised on behalf of the petitioners that they are being sent home after terminating their services, is incorrect as the services of such employees can continue but under the outsourcing scheme.

17. Learned counsel for the respondents further submits that there is no prejudice which has been caused to the petitioners on account of shifting them to the outsourcing scheme hence, the grievance being raised by the petitioners is liable to be rejected.

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18. Learned counsel for the petitioners submits that the petitioners have enough service to their credit as of now and were waiting for the policy for regularization of their services and rather than regularizing their services, they are being shifted to work under a contractor which will take away their right to claim for regularization by treating them to be the employees of the contractor and not of the State, which will cause prejudice to the petitioners and the said issue needs to be redressed.

19. Before deciding the said issue, it may be noticed that keeping in view the various interim orders passed by the Coordinate Bench of this Court, as of now, some of the petitioners, who are working in the various Session Division in the State of Punjab and Haryana are still continuing under the direct employment of the Session Division. Services of some of the petitioners have already been terminated and they have been adjusted under the outsourcing scheme and they are discharging the duties in the respective Session Division under the outsourcing policy. Some of the petitioners refused to join under a contractor and are hence not working as of now after their services were terminated in the year 2022. The main grouse of the petitioners is that by the time their services were dispensed with in the year 2022, they have acquired a right to be considered for regularization of their services keeping in view the number of years of service which they had served which is more than one decade hence, their claim for regularization should be considered by the respective Session Division.

20. The issue with regard to the regularization of various part time employees as well as temporary employees, who had sufficiently long

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service to their credit came up for consideration before the Hon'ble Supreme Court of India in ***SLP (C) No.5580 of 2024 and SLP No.11086 of 2024 titled as Jaggo vs. Union of India and others, decided on 20.12.2024***, wherein the Hon'ble Supreme Court of India has held that where a part time employee who has rendered decades of service and then his/her services are dispensed with, same is not justifiable. As per the order passed in ***Jaggo's case (supra)***, once an employee has sufficiently long service to his/her credit even if, on part time basis and keeping in view the fact that the nature of job being rendered by such employee is continuing in nature and services of such employees is also required for the smooth functioning of the establishment, such employees are entitled for consideration of their claim for regularization.

21. Further, as per the settled principle of law, the regularization of services can only be ordered by the High Court in case there exist a valid policy issued by the respective State. As of now, qua the State of Haryana, there is no such regularization policy which is in force so as to direct the State for consideration of the claim of the petitioners for regularizing their services.

22. Similar is the position with the State of Punjab as the regularization policy as envisaged in The Punjab Adhoc, Contractual, Daily Wage, Temporary Work Charged and Outsourced Employees Welfare Act, 2016 has already been decided to be re-appealed.

23. Keeping in view the fact that the employees have sufficiently long service to their credit and it is not the case of the respondents that such services are not needed or the requirement of the such posts does not exist,

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it is directed that the petitioners should be allowed to continue in service till the work of the post in question exist subject to satisfactory work and conduct of the employees. Further, such employees including the petitioners will not be replaced by another set of employees on the same terms and conditions and they will be allowed to continue on the post on the terms and conditions as it exists today. The employees who are working under the direct control of the Session Division will continue under the said control and in case, the employees are working under the outsourcing policy, they will also be allowed to continue under the outsourcing policy irrespective of the contractor who is given the contract for the supply of the workforce. However, in case any of the employee misconducts in any manner, the jurisdiction will exist with the competent authority in the Session Division to take appropriate action in accordance with law.

24. Keeping in view the facts and circumstances of the present case as well as settled principle of law, the competent authorities for the purpose of regularization in respect of the petitioners are directed to take appropriate decision qua the claim of the petitioners for regularization of their services in terms of the judgment in *Jaggo's case (supra)*. The said decision should be taken within a period of six months from the receipt of copy of this order by duly keeping in loop the Punjab and Haryana High Court being the supervisory authority of the Session Division where the petitioners are working as well as the respective competent authority in the State of Punjab and Haryana as the case may be. The decision so taken by the authorities qua the claim of the petitioners for regularization, be given effect to qua all keeping in view the date of their initial appointment and not their present

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status of working i.e. irrespective of the fact that they are working under the direct control of Session Division or through contractor. In case, there is an employee who might be working under the contractor after the termination of his/her services but another similarly situated employee is working directly under the Session Division keeping in view the interim order granted, they will be kept on the same footing while deciding the issue of regularization and ultimately, while considering their claim for regularization of their services.

25. Qua the stand which has been taken by the Session Division that there are certain cadres for which outsourcing policy has been adopted and the interim order should be vacated and all those petitioners should also be employed through the outsourcing agency for the smooth functioning of the Session Division, it may be noticed that the prime contention of the petitioners is qua the regularization of their services under the judgment of the Hon'ble Supreme Court of India in ***Jaggo's case (supra)***. The directions have already been given to the competent authorities to look into the said aspect and decide the issue in a time bound manner. Once, a direction is being given on the said aspect for consideration their claim for regularization of their services coupled with the fact that keeping in view the interim order already granted, some of the petitioners are working under the direct control of the Session Divisions, shifting them as of now to a contractor will create further anomaly therefore, in the interest of equity, the status quo qua the services of the petitioners be maintained till a final decision is taken qua the regularization of the services of the petitioners keeping in view the judgment of the Hon'ble Supreme Court of India in

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Jaggo's case (supra) by the competent authorities.

26. It may be noticed here that certain directions have been given by the Hon'ble Supreme Court of India qua regularization of employees while passing order in *Jaggo's case (supra)*, with respect to what benefit such employees are required to be given keeping in view the qualifications prescribed for the post and number of years of the service rendered by them while deciding the eligibility of the employee concerned for regularization and the same be kept in mind while deciding the issue with regard to the claim of the petitioners for the grant of regularization.

27. At this stage, learned counsel for the petitioners submits that some of the petitioners who are now working under the Sessions Division through the contractor, their grievance qua equal pay or equal work needs to be redressed for which, liberty be given to them to approach the appropriate competent authority by filing appropriate representation and the respondents be directed to decide the same in accordance with law in a time bound manner.

28. Learned counsel for the respondents submits that in case any representation/claim is received at the hands of the petitioners raising the said grievance, the same will be decided by the competent authority within a period of four months of the receipt of any such claim/representation and in case, after the decision any relief is to be extended to the petitioners, the same will be extended, otherwise due reasons will be mentioned in the speaking order to be passed for not accepting the claim of the petitioners for their information and necessary action.

29. The present writ petitions are disposed of in above terms.

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30. Civil miscellaneous application pending if any, also stands disposed of.
31. A photocopy of this order be placed on the file of other connected cases.

January 23, 2025
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes