



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CWP-3815-2001 (O&M)

Raj Rani and others
.....Petitioners
Versus
State of Haryana and others
.....Respondents

2. CWP-3898-2001 (O&M)

Gurmail Kaur and others
.....Petitioners
Versus
State of Haryana and others
.....Respondents

3. CWP-4673-2001 (O&M)

Savitri Devi
.....Petitioner
Versus
State of Haryana and others
.....Respondents

4. CWP-4715-2001 (O&M)

Nirmala Devi and another
.....Petitioners
Versus
State of Haryana and others
.....Respondents

1.	Date when judgment was reserved	28.04.2026
2.	Date of pronouncement of judgment	12.05.2026
3.	Date of uploading judgment	12.05.2026
4.	Whether operative part or full judgment is pronounced	Full
5.	Delay, if any, in pronouncing of full judgment and reasons thereof	Not Applicable

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Ms. Anu Chatrath, Sr. Advocate
with Mr. Yuvraj Dhananjaya, Advocate
for the petitioners in CWP-3815-2001.

Mr. Dinesh Kumar, Advocate
for the petitioners in CWP Nos.3898, 4673, 4715 of 2001.

Mr. Piyush Khanna, Addl. A.G., Haryana.

Mr. Vinay Kumar Mahajan, Advocate
for respondents No.3 to 6 in CWP-3898-2001.

HARPREET SINGH BRAR J. (Oral)

1. With the consent of all the parties, the aforementioned writ petitions are taken up together and are being decided by this common judgment. However, for the sake of brevity, the facts are taken from CWP-3815-2001.

2. The writ petition (CWP-3815-2001) has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the letter dated 01.01.2001 whereby the services of the petitioners were terminated by respondent No.4. Further, for issuance of a writ in the nature of *mandamus* directing the respondents to frame a policy of absorption of employees working as *Balsevikas* as well as to grant them the same pay scale as has been given to some of their counterparts.

CONTENTIONS

3. Learned Senior counsel for the petitioners has contended that the petitioners were appointed as *Balsevikas*, with various District Councils for Child Welfare, on *ad hoc* basis for a period of 06 months



for a consolidated salary. The appointment letter dated 11.04.1977 issued to petitioner No.1 is available at Annexure P-2. She further submitted that the State of Haryana introduced the Balwadi-cum-Nutrition Programme (hereinafter 'BNP'), which was executed through respondent- Haryana State Council for Child Welfare (HSCCW), registered under the Societies Registration Act, 1960, although it was mostly funded by the Central Government.

4. It was further submitted that vide letter dated 24.04.1998 (Annexure P-3) the Ministry of Human Resources Development, Department of Women and Child Development intimated the decision to discontinue the BNP by 31.03.2001. In furtherance thereof, impugned letter dated 01.01.2001 (Annexure P-4) was issued, terminating the services of the petitioners w.e.f. 31.03.2001. Clause V of the letter dated 24.04.1998 (Annexure P-3) provides that efforts be made to get Integrated Child Development Scheme (ICDS) centres allotted in lieu of closure of BNP centres, however, no efforts were made towards it. As such, the State failed to discharge its duty to absorb surplus government employees in other departments or organisations. Further, the juniors of petitioner No.1, namely- Asha Rani and Jaya Rani were transferred from Balwadi to Creches even though neither of them were served any notice, and are still working at Bal Bhawan, Karnal and Creche at Madhuban, respectively.

5. Relying upon the judgment of the Hon'ble Supreme Court in ***Olga Tellis vs. Bombay Municipal Corporation AIR 1986 SC 180***,



learned Senior counsel submitted that the decision to withdraw the BNP without formulating a policy for absorption of its staff is violative of the right to livelihood of the petitioners, as enshrined in Article 21 of the Constitution. Further still, the BNP was guided by Article 39(f) of the Constitution of India i.e. to provide a conducive and healthy environment for development of children. As such, the State cannot abruptly abandon this directive principle of State policy, without making arrangements for the consequences thereof, as it defeats the promise of a Welfare State. Learned Senior counsel for the petitioners has further relied upon the judgments i.e. *G. Govida Rajulu vs. The Andhra Pradesh State Construction Corporation Ltd. and another* AIR 1987 SC 1801, *Haryana Tanneries Employees Union (Regd.), Jind, Haryana vs. State of Haryana and another* in CWP-9469-1988, *State of Punjab and others vs. Mehanga Ram and others* 1989 (2) SLR 56 (P&H) and *Ram Phal vs. State of Haryana and others* in CWP-1040-1990 and submits that the petitioners deserve to be provided alternative jobs, as they have rendered services under the control of State Government for 14 to 24 years, respectively.

6. *Per contra*, learned counsel for respondents-HSSCW submitted that the respondent-HSCCW runs partly on the grants in aid received from respondent-Indian Council for Child Welfare (ICCW), and Central Social Welfare Board, for Schemes sponsored by the Government of India, as well as funds collected by social workers. The respondent-HSCCW is merely responsible for execution of the Schemes

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formulated by the Government of India. One of such Schemes was the BNP, which was financed by the respondent-ICCW through Ministry of Human Resources, Department of Women and Child Development. The same was proposed to be terminated for duplication/overlap of functions with the ICDS, operated by the State Government. Thus, the viability of the Scheme directly depended upon the aid received from the Central Government. Consequently, upon issuance of letter dated 24.04.1998 (Annexure P-3) by the Central Government, the BNP had to be necessarily wrapped up as the aid was no more forthcoming. Learned counsel contended that the petitioners were duly intimated of the closure of the BNP and they were also provided adequate compensation by giving 15 days salary for each completed year of service. Thus, no claim for alternative employment survives. Additionally, Balwadis and Creches are different Schemes launched by respondent-ICCW. The BNP was shut down while the Creche Scheme is still running; as such, the argument regarding certain persons continuing to work with the Creches, is entirely baseless as no parity can be drawn between the employees of the two. He further stated that a request letter dated 05.08.1998 (Annexure R-3-4/7) was made by the respondent-HSCCW to the governing body for the ICDS i.e. Director, Women and Child Development, to hand over ICDS centres, but the same was denied vide memo/letter dated 12.10.1998 (Annexure R-3-4/8). Further, the petitioners are not entitled to regular pay scale as the parameters of the Scheme do not provide for it.

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7. Reliance was also placed on the judgment rendered by the Hon'ble Supreme Court in *State of H.P. vs. Nodha Ram and others AIR 1997 SC 1445, S.M. Nilajkar and others vs. Telecom. District Manager, Karnataka* and upon the judgment of the Chhattisgarh High Court in *Bablu Singh Painkara and others vs. Union of India and others 2024 NCCGHC 31515* to contend that there is no vested right to be continued in public employment with the State Government upon discontinuation of a Scheme by the Central Government.

OBSERVATIONS AND ANALYSIS

8. Having heard learned counsel for the parties and after perusing the record, it transpires that the petitioners are aggrieved by closure of the BNP, a programme supported financially by the respondent-ICCW, and executed by the respondent-HSCCW. Notably, respondent-ICCW received its funding from the Central Government's Ministry of Human Resources, Department of Women and Child Development. As mentioned in the letter dated 05.08.1998 (Annexure R-3-4/7), the functions of BNP, run by the respondent-HSCCW, were overlapping with those of ICDS, managed by the State Government. Thus, a policy decision was taken by the Central Government, vide letter dated 24.04.1998 (Annexure P-3) to discontinue the BNP w.e.f. 31.03.2001. The said decision was duly communicated to the petitioners, one such letter dated 01.01.2001, sent to petitioner No.1, is available at Annexure P-4. The petitioners were also paid compensation in lieu of their services, upon termination.



9. It is the case of the petitioner that they deserve to be adjusted in some other department of the State Government, in view of their long service in the BNP. However, it remains a fact that the petitioners were appointed under a specific scheme i.e. the BNP, which also dictates the terms of their employment. It is reiterated for the sake of clarity, that the BNP was funded by the Central Government through respondent-ICCW while the role of the respondent-HSCCW is limited to merely executing it. Observing that the BNP was providing the same services as the ICDS, managed by the State Government, the former was decided to be discontinued. Since it is purely a policy matter, the Central Government has the sole prerogative to pick the schemes it finds wise to fund. Thus, the decision to discontinue the BNP is legally valid. Furthermore, since the petitioners were engaged specifically under the BNP, under which no sanctioned posts existed, they were fully aware of the temporary nature of their engagement. Tritely, the bounds of engagement in pursuance of a project/scheme cannot be exceeded and therefore, the State Government is under no obligation to adjust the petitioners in some other department/organisation, once the BNP is discontinued.

9.1. A two-Judge Bench of the Hon'ble Supreme Court in ***Govt. of H.P. Shimla vs. Ashwani Kumar and others (1996) 1 SCC 773*** observed as follows in this regard:

“4. It is seen that when the project is completed and closed due to non-availability of funds, consequently, the employees have to go along with



the closed project. The High Court was not right in giving the direction to regularise them or to continue them in other places. No vested right is created in temporary employment. Directions cannot be given to regularise their services in the absence of any existing vacancies nor directions be given to create posts by the State to a non-existent establishment. The Court would adopt pragmatic approach in giving directions. The directions would amount to creating of posts and continuing them in spite of non-availability of the work.”

9.2. Furthermore, a two Judge bench of the Hon’ble Supreme Court in ***Nodha Ram (supra)***, held as follows:

“3. The facts are that the respondents were engaged on daily wages on muster roll basis in Central Scheme and were paid out of the funds provided by the Central Government. It is stated that after the Scheme was closed their services were dispensed with. When the respondents filed the writ petition in the High Court, the High Court gave interim direction on November 18, 1992 and directed their re-engagement elsewhere. Against the aforesaid interim direction, this appeal by special leave has been filed.

4. It is seen that when the project is completed and closed due to non-availability of funds, the employees have to go along with its closure. The High Court was not right in giving the direction to regularise them or to continue them in other places. No vested right is created in temporary employment. Directions cannot be given to regularise their services in the absence of any existing vacancies nor can directions be given to the State to create posts in a non-



existent establishment. The Court would adopt pragmatic approach in giving directions. The directions would amount to creating of posts and continuing them despite non-availability of the work. We are of the considered view that the directions issued by the High Court are absolutely illegal warranting our interference. The order of the High Court is therefore, set aside.”

10. Further still, the BNP did not envisage grant of regular pay or regularisation of services of its employees. As such, this Court cannot provide more than what the Scheme envisioned. A two Judge bench of the Hon’ble Supreme Court in ***Delhi Development Horticulture Employees’ Union vs. Delhi Administration, Delhi and others (1992) 4 SCC 99***, speaking through Justice P.B. Sawant, opined as follows in this regard:

“13. *There is no doubt that broadly interpreted and as a necessary logical corollary, right to life would include the right to livelihood and, therefore, right to work. It is for this reason that this Court in **Olga Tellis v. Bombay Municipal Corporation, AIR 1986 Supreme Court 180 : 1986 R.R.R. 290**, while considering the consequences of eviction of the pavement dwellers had pointed out that in that case the eviction not merely resulted in deprivation of shelter but also deprivation of livelihood inasmuch as the pavement dwellers were employed in the vicinity of their dwellings. The Court had therefore, emphasised that the problem of eviction of the pavement dwellers had to be viewed also in that context. This was, however, in the context of Article 21 which seeks to protect persons against the deprivation of their life except according to procedure*

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established by law. This country has so far not found it feasible to incorporate the right to livelihood as a fundamental right in the Constitution. This is because the country has so far not attained the capacity to guarantee it, and not because it considers it any the less fundamental to life. Advisedly, therefore, it has been placed in the Chapter on Directive Principles Article 41 of which enjoins upon, the State to make effective provision for securing the same "within the limits of its economic capacity and development". Thus even while giving the direction to the State to ensure the right to work, the Constitution makers thought it prudent not to do so without qualifying it.

14. Viewed in the context of the facts of the present case it is apparent that the schemes under which the petitioners were given employment have been evolved to provide income for those who are below the poverty line and particularly during the periods when they are without any source of livelihood and, therefore, without any income whatsoever. The schemes were further meant for the rural poor, for the object of the schemes was to start tackling the problem of poverty from that end. The object was not to provide the right to work as such even to the rural poor much less to the unemployed in general. As has been pointed out by the Union of India in their additional affidavit, in 1987-88, 33 per cent of the total rural population was below the poverty line. This meant about 35 million families. To eliminate poverty and to generate full employment 2500-3000 million man-days of work in a year was necessary. As against that, the Jawahar Rozgar Yojna could provide only 870 million mandays of employment on intermittent basis in neighbourhood

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projects. Within the available resources of Rs. 2600 crores, in all 3.10 million people alone could be provided with permanent employment, if they were to be provided work for 273 days in a year on minimum wages. However, under the scheme meant for providing work for only 80-90 days work could be provided to 9.30 million people.

*The above figures show that if the resources used for the Jawahar Rozgar Yojna were in their entirety to be used for providing full employment throughout the year, they would have given employment only to a small percentage of the population in need of income, the remaining vast majority being left with no income whatsoever. **No fault could, therefore, be found with the limited object of the scheme given the limited resources at the disposal of the State. Those employed under the scheme, therefore, could not ask for more than what the scheme intended to give them.** To get an employment under such scheme and to claim on the basis of the said employment, a right to regularisation is to frustrate the scheme itself. No Court can be a party to such exercise. It is wrong to approach the problems of those employed under such schemes with a view to providing them with full employment and guaranteeing equal pay for equal work. These concepts, in the context of such schemes are both unwarranted and misplaced. They will do more harm than good by depriving the many of the little income that they may get to keep them from starvation. They would benefit a few at the cost of the many starving poor for whom the schemes are meant. That would also force the State to wind up the existing schemes and forbid them from introducing the new ones, for want of resources. This is not to say that the problems of the unemployed deserve no consideration*

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or sympathy. This is only to emphasise that even among the unemployed a distinction exists between those who live below and above the poverty line, those in need of partial and those in need of full employment, the educated and uneducated, the rural and urban unemployed etc.”

(emphasis added)

CONCLUSION

11. In view of the above discussions, this Court is of the considered opinion that the petitioners were aware of the fact that their employment was specifically under the BNP and shall only continue during the subsistence thereof and as such, the legally permissible discontinuation of the BNP does not create any vested right *qua* the petitioners to be adjusted in the service of the State Government. Further, the scheme under which the petitioners were engaged does not envisage regular pay scale or sanctioned posts.

12. Accordingly all the captioned writ petitions are dismissed.

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

13. A photocopy of this order be placed on the file of other connected cases.

(HARPREET SINGH BRAR)
JUDGE

12.05.2026

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No