2026:PHHC:035547

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

230+112

CWP-9608-2023 (O&M)
Date of decision: 05.03.2026

Gurinder Singh and others

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Fateh Singh Dhillon, Advocate
for the petitioners.

Mr. Vikas Sonak, AAG, Punjab.

Mr. Sarbuland S. Mann, Advocate
for respondent No.4.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Article 226 of the Constitution of India, is for issuance of a writ in the nature of mandamus, directing the respondents to immediately implement resolution No.370 dated 26.11.2016 (Annexure P-5) passed by respondent No.4-Nagar Council, Rampura Phul, vide which the services of the petitioners have been converted from "outsourced" to "in-source" on a contractual basis, working directly under the Municipal Council, in terms of The Punjab Ad hoc, Contractual, Daily Wage, Temporary, Work-Charged and Outsourced Employees' Welfare Act, 2016 (hereinafter referred to as 'the 2016 Act'). Further prayer has been made to direct the respondents to permit the petitioners to work on the post of Fireman directly under the Municipal Council, as has already been done

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in case of similarly situated employees vide resolution No.370 dated 26.11.2016. Another prayer has been made to restrain the respondents from initiating any further process to fill the posts on which the petitioners are working as Firemen/Drivers and either on outsourced or regular basis.

2. Learned counsel for the petitioners, *inter alia*, contends that the petitioners were appointed as Firemen with the Municipal Council, Rampura Phul on 21.08.2012 pursuant to a duly issued advertisement and after fulfilling the requisite qualifications as per the Fire Standing Orders. Their appointment was initially made on a contract basis through a private manpower agency (outsourced), pursuant to resolution No.44 dated 21.08.2012 (Annexure P-1), which was duly approved by the Director, Local Government on 24.06.2014 (Annexure P-2). The petitioners have been continuously working in this capacity since then.

2.1. Learned counsel further submits that in December, 2016, the State of Punjab enacted The Punjab Ad Hoc, Contractual, Daily Wage, Temporary, Work Charged and Outsourced Employees' Welfare Act 2016, with the objective of providing welfare and security to a large class of precarious workers. Section 6 of the 2016 Act specifically provided that outsourced employees recruited through a private manpower agency and working for a continuous period of not less than three years preceding the date of the Act (24.12.2016) shall be taken on a direct contract basis by the competent authority. In terms of this statutory mandate and a government letter dated 10.11.2016, the

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General House of the Nagar Council, Rampura Phul passed resolution No.370 on 26.11.2016 (Annexure P-5). This resolution specifically named the petitioners (Gurinder Singh, Rajvir Singh, Naresh Kumar, along with others) as employees whose status was to be changed from outsourced to in-source, i.e., working directly on contract with the Council, in compliance with Section 6 of the 2016 Act. This resolution was approved by the Director, Local Government on 03.01.2017 (Annexure P-6).

2.2. Learned counsel for the petitioners further submits that the resolution (Annexure P-6) was partially implemented. An employee, namely Geetika (Office Clerk) was issued direct appointment letter by the Council on 27.12.2017 (Annexure P-7) and another namely, Gurpreet Singh (Fire Driver) was extended the benefit of the same resolution granting them the benefit of Section 6 of the 2016 Act. However, the petitioners, despite being identically situated and having completed more than three years of service as on 24.12.2016, were denied the benefit of the resolution and the 2016 Act. Following which their subsequent representations, including a legal notice dated 22.02.2023 (Annexure P-13), have remained unanswered.

3. Learned counsel for the respondents No.1 to 3, submits that the Municipal Council is an autonomous body under Section 39 of the Punjab Municipal Act, 1911, and is the competent authority to appoint and manage its own staff, especially for non-provincialised posts. They

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submitted that the dispute is essentially between the petitioners and respondent No.4.

4. *Per contra,* learned Counsel for the respondent No.4 - Council, is neither able to controvert the fact that two similarly situated individuals namely, Geetika and Gurpreet Singh have been taken into direct contract with the respondent-Council, in pursuance of the resolution No.370 on 26.11.2016 (Annexure P-5) nor that the same resolution had recommended the names of the petitioners.

5. Having heard the learned counsel for the parties and upon perusing the record with their able assistance, it emerges that the petitioners have been working in the respondent department since the year 2014. It is further not in dispute that in pursuance to the provisions of the 2016 Act, Resolution No. 370 dated 26.11.2016 (Annexure P-5) was passed by respondent No. 4 - Council for the purpose of bringing certain outsourced employees on direct contractual engagement.

6. A bare perusal of Section 6 of the 2016 Act reveals that outsourced employees who have rendered a minimum period of three years of service are liable to be taken on direct contract by the State Government or its agencies. The relevant provision is reproduced hereunder:

> "*6. **The outsourced employees recruited through private man power** agency in the service of the State Government or its entities and **working for a continuous period of not less than three years** preceding the date of coming into force of this Act **shall be taken on contract** on yearly basis by the competent authority in such service of the State*

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> *Government or its entities, subject to the following conditions, namely:-*
>
> *(a) fulfil the eligibility with regard to minimum and maximum age limit;*
>
> *(b) possess requisite educational qualification and experience as specified for the post under the service rules at the time of initial appointment;*
>
> *(c) satisfactory verification of antecedents;*
>
> *(d) have good character and conduct; and*
>
> *(e) have not been indicted or undergoing any civil, criminal or departmental proceedings:"*

7. Admittedly, the petitioners fulfilled all the eligibility requirements prescribed under the 2016 Act and their rights under Section 6 of the 2016 Act crystallized on the date they completed three years of service as outsourced employees. The mere pendency of a challenge to a statute, in the absence of any interim order staying its operation, does not invalidate or defeat rights that have already accrued under the said statute.

8. It is trite law that a duly enacted legislation continues to remain in force unless it is superseded or repealed in accordance with law or declared *ultra vires* by a competent Court. This court in **CWP-12434-**2022, titled as ***Akash Sharma vs. State of Punjab*****,** while discussing the validity of the 2016 Act, observed that the 2016 Act continues to have the full force of law as it was never repealed in terms of the settled legal position. This court in ***Akash Sharma's case (supra)*** held that:

> "*20. Curiously, while learned counsel for the respondents vehemently contended that the petitioner's claim cannot be considered under the Act of 2016, it is simultaneously and*

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> *categorically admitted that the* ***Bill of 2021 never attained the assent of the Governor of Punjab and, therefore, never metamorphosed into an Act. In the absence of such assent, the Bill of 2021 cannot be said to have acquired the force of law. Consequently, the repeal clause as provided in Section 14 of the said Bill, was never implemented and thus, it could not have repealed the Act of 2016. A Bill, regardless of the stage it has reached in the legislative process, does not become law until it receives the assent of the Governor under Article 200 of the Constitution of India. To hold otherwise would effectively allow the Executive to accomplish, through mere statements before a Court, what can only be achieved through the due legislative process.****"*

9. Further a bare perusal of the resolution No.370 (Annexure P-5) reveals that the names of the present petitioners were indeed included therein along with several other similarly situated employees. It is also an admitted position that two counterparts of the petitioners, whose names were also reflected in the same resolution, have been extended the benefit of the said resolution. However, despite being identically situated and forming part of the same resolution, the petitioners have been denied the corresponding benefit. This selective implementation of the resolution (Annexure P-5) indicates an arbitrary and discriminatory exercise of power by the respondent-Council.

10. In view of the above, the present petition is allowed. The respondents are directed to grant the petitioners the benefit of resolution No.370 (Annexure P-5), consequently treating them as "in-source" contractual employees working directly under the Municipal Council, with all consequential benefits, from the date the resolution was implemented in the case of other similarly situated employees, i.e., from

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27.12.2017 (the date of the letter issued to Geetika, Annexure P-7), within a period of six weeks from the date of receipt of a certified copy of this order.

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

(HARPREET SINGH BRAR)
JUDGE

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

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