

CWP-11309-2017

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP-11309-2017
Date of Decision: **23.03.2026**

Virender and others

.....Petitioners

VERSUS

Chief Administrator Haryana Urban Development Authority Panchkula and
others

..Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Ms. Nisha Kanojia, Legal Aid Counsel for the petitioners.

Mr. Padamkant Dwivedi, Advocate for the respondents.

HARPREET SINGH BRAR, J. (Oral)

1. The present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of an appropriate writ or order in the nature of *mandamus* directing the respondents No.1 to 5 for reinstating/rejoining the petitioners on duty and regularizing their services. Further praying for directing the respondents No.2 to 4 to decide the legal notice dated 30.03.2017 (Annexure P-1) submitted by petitioners.

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**PETITIONERS' CONTENTIONS**

2. Learned counsel for the petitioners, inter alia, contends that the petitioners were engaged as Tube-well Operators at various tube-wells under the Haryana Urban Development Authority, Panchkula, and have discharged their duties with utmost honesty, diligence and dedication, without any adverse remarks to their credit. It is submitted that the petitioners have rendered continuous service without any break and have been working against posts of a perennial nature. She further submits that the services of the petitioners have been abruptly terminated without issuance of any notice, without affording an opportunity of hearing, and without assigning any reason, which action is violative of the principles of natural justice. It is also submitted that the petitioners have been replaced by a fresh set of employees despite the existence of sufficient vacancies, which renders the impugned action arbitrary and unsustainable. Learned counsel further placed reliance upon Annexures P-2 and P-3, submits that the petitioners had been in continuous service and statutory deductions such as provident fund and Employees' State Insurance contributions were being made from their wages, thereby evidencing the employer-employee relationship. It is further submitted that the petitioners have put in long years of service ranging from 5 to 15 years, and, therefore, they are entitled to reinstatement in service along with continuity of service and all consequential benefits.

2.1 To support her contentions, she places reliance upon the judgements rendered by the Hon'ble Supreme Court in *Jaggo v. Union of*

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India and others 2025 AIR SC 296; Shripal & Anr. v. Nagar Nigam, Ghaziabad 2025 SCC OnLine SC 221; Dharam Singh v. State of U.P 2025 SCC Online SC 1735 and the judgments rendered by this Court in *CWP-6174-2026, Manoj Kadian v. State of Haryana*, decided on 27.02.2026, *Manak Singh v. State of Punjab 2026 NCPHHC 6554* and *CWP-25042-2025, Hari Ram v. State of Haryana*, decided on 08.09.2025. Learned counsel further submits that engaging employees on a continuous ad hoc basis for years together, despite the work being of a perennial and regular nature, while simultaneously denying them the benefits of regular/permanent service, squarely falls within the ambit of unfair labour practices and is impermissible in law.

RESPONDENTS' CONTENTIONS

3. *Per contra*, learned counsel for the respondents submits that the petitioners, along with other similarly situated persons, were engaged through outsourcing agencies, and such agencies were changed from time to time. It is contended that, on account of change in outsourcing agencies, the nature of engagement as well as the roles assigned to the petitioners also underwent changes. Learned counsel further submits that some of the similarly situated employees had earlier raised an industrial dispute before the Labour Court, Ambala, which culminated in rejection of their claims vide award dated 27.02.2019 (Annexure P-11). The said award has attained finality and, therefore, the petitioners cannot be permitted to reagitate the same issue in the present proceedings.

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3.1 Learned counsel also submits that the present writ petition does not contain any specific prayer seeking regularization of services and, in any case, the relief sought involves adjudication of disputed questions of fact, which cannot be effectively determined in exercise of writ jurisdiction under Article 226 of the Constitution of India. Accordingly, prayed that the present writ petition be dismissed being devoid of any merit.

OBSERVATIONS AND ANALYSIS

4. I have heard learned counsel for the parties and have perused the record with their able assistance. It is an admitted position that the petitioners were engaged through outsourcing agencies and their engagement was neither against sanctioned posts nor in pursuance of any regular recruitment process.

4.1 It further transpires from the record that similarly situated employees had earlier invoked the jurisdiction of the Labour Court, Ambala, by raising an industrial dispute, which culminated in rejection of their claims vide award dated 27.02.2019.

4.2 A perusal of the material on record also reveals that it is not the respondents who have terminated the services of the petitioners; rather, their disengagement is attributable to the concerned manpower contractor. In terms of the outsourcing policy dated 06.04.2015 (Annexure R-2), the departments are duly empowered to outsource services, wholly or partially, in respect of functions where no sanctioned posts exist. The respondents



have acted in consonance with the said policy, and the petitioners, having been engaged through an outsourcing agency for a specified tenure, cannot claim any vested or enforceable right to continue, particularly when a fresh set of personnel has been deployed by a subsequent agency.

4.3 Moreover, the issues raised in the present writ petition entail adjudication of disputed questions of fact, which would require appreciation of evidence, an exercise that this Court, while exercising its jurisdiction under Article 226 of the Constitution of India, is not equipped to undertake.

5. It is settled law that where disputed questions of facts are involved, a petition under Article 226 of the Constitution of India is not the proper remedy. A two-Judge Bench of the Hon'ble Supreme Court in ***S.P.S. Rathore v. State of Haryana, (2005) 10 SCC 1***, speaking through Justice Y.K. Sabharwal, has held as follows:

"16. In Chairman, Grid Corpn. of Orissa Ltd. (Gridco) v. Sukamani Das [(1999) 7 SCC 298] the question which arose for consideration was, can the High Court under Article 226 of the Constitution award compensation for death caused due to electrocution on account of negligence, when the liability was emphatically denied on the ground that the death had not occurred as a result of negligence, but because of an act of God or of acts of some other persons. The Court held that it is the settled legal position that where disputed questions of facts are involved, a petition under Article 226 of the Constitution is not a proper remedy. Therefore, questions as to whether death occurred due to negligence or due to act of God or of some third person could not be decided properly on the basis of affidavits only, but should be decided by the civil court after appreciating the evidence adduced by the parties. In T.N. Electricity Board v. Sumathi [(2000) 4 SCC 543] it was held that when a disputed question of fact arises and there is clear denial of any tortious liability, remedy under Article 226 of the Constitution may not be proper. The Court carved out exception to



this general rule by observing that, it should not be understood that in every case of tortious liability, recourse must be had to a suit. When there is negligence on the face of it and infringement of Article 21 is there, it cannot be said that there will be any bar to proceed under Article 226 of the Constitution."

6. Further a two-Judge Bench of the Hon'ble Apex Court in

Orissa Agro Industries Corporation Ltd. Vs. Bharati Industries 2005 (12)

725 while speaking through Justice Arijit Pasayat, observed that as follows:

“9. A bare perusal of the High Court's judgment shows that there was clear non-application of mind. On one hand the High Court observed that the disputed questions cannot be gone into a writ petition. It was also noticed that essence of dispute was breach of contract. After coming to the above conclusions the High Court should have dismissed the writ petition. Surprisingly, the High Court proceeded to examine the case solely on the writ petitioner's assertion and on a very curious reasoning that though the appellant-Corporation claimed that the value of articles lifted was nearly rupees 14.90 lakhs no details were specifically given. From the counter-affidavit filed before the High Court it is crystal clear that relevant details disputing claim of the writ petitioner were given. Value of articles lifted by the writ petitioner is a disputed factual question. **Where a complicated question of fact is involved and the matter requires thorough proof on factual aspects, the High Court should not entertain the writ petition. Whether or not the High Court should exercise jurisdiction under Article 226 of the Constitution would largely depend upon the nature of dispute and if the dispute cannot be resolved without going into the factual controversy, the High Court should not entertain the writ petition.** As noted above, the writ petition was primarily founded on allegation of breach of contract. Question whether the action of the opposite party in the writ petition amounted to breach of contractual obligation ultimately depends on facts and would require material evidence to be scrutinised and in such a case writ jurisdiction should not be exercised. (See : *State of Bihar v. Jain Plastic & Chemicals Ltd., 2002(1) SCC 216*).

10. In a catena of cases this Court has held that where dispute revolves round questions of fact, the matter ought not

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be entertained under Article 226 of the Constitution. (See : Chairman, Grid Corporation of Orissa LTd. (GRIDCO) and Ors. v. Sukamani Das (Smt.) and Anr., 1999(4) RCR (Civil) 174 (SC) : (1999(7) SCC 298).

7. A Two-Judge bench of the Hon'ble Supreme Court in ***Chairman, Grid Corporation of Orissa Ltd. (Gridco) Vs. Smt. Sukamani Das 1999 (7) SCC 298***, while speaking through Justice G.T Nanavati made the following observations:

*“6. In our opinion, the High Court committed an error in entertaining the writ petitions even though they were not fit cases for exercising power under Article 226 of the Constitution. The High Court went wrong in proceeding on the basis that as the deaths had taken place because of electrocution as a result of the deceased coming into contact with snapped live wires of the electric transmission lines of the appellants, that "admittedly/prima facie amounted to negligence on the part of the appellants". The High Court failed to appreciate that all these cases were actions in tort and negligence was required to be established firstly by the claimants. Mere fact that the wire of the electric transmission line belonging to the appellant No. 1 had snapped and the deceased had come into contact with it and had died was not by itself sufficient for awarding compensation. It also required to be examined whether the wire had snapped as a result of any negligence of the appellants and under which circumstances the deceased had come into contact with the wire. In view of the specific defences raised by the appellants in each of these cases they deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission lines and yet the wires had snapped because of circumstances beyond their control or unauthorised intervention of third parties or that the deceased had not died in the manner stated by the petitioners. These questions could not have been decided properly on the basis of affidavits only. **It is the settled legal position that where disputed questions of facts are involved a petition under Article 226 of the Constitution is not a proper remedy.** The High Court has not and could not have held that the disputes in these cases were raised for the sake of raising them and that there was no substance therein. The High Court*

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should have directed the writ petitioners to approach the Civil Court as it was done in OJC No. 5229 of 1995.

8. Reliance in this regard may be placed on the judgement rendered by the Hon'ble Apex Court in *Shubhas Jain v. Rajeshwari Shivam, 2021 SCC Online SC 562*, *Union of India v. Puna Hinda, (2021) 10 SCC 690* and of this Court in *Sanchalakshri v. Vijayakumar Raghuvirprasad Mehta and another, 1999(1) SCT 88 (SC) : JT 1998(8) SC 55*.

9. It is trite that a writ petition under Article 226 is not an appropriate remedy for resolving disputed questions of fact. In such cases, the High Court cannot transform itself into a court of first instance to reappreciate evidence or decide intricate factual disputes.

10. In view of the aforesaid and in the facts and circumstances of the present case, the claim of the petitioners for regularization cannot be sustained in light of the judgments relied upon by learned counsel for the petitioners. Accordingly, finding no merit, the present writ petition is dismissed.

11. Pending miscellaneous applications(s), if any, shall also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

23.03.2026

P.C

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No