



CWP-22592-2015 (O&M)

1

280-1

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

**CWP-22592-2015 (O&M)
Date of decision: 28.01.2026**

MUNISH GUPTA AND OTHERS

....Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Gautam Pathania, Advocate
for the petitioners.

Mr. Pankaj Middha, Addl. Advocate General, Haryana.
Mr. Sanjeev Kaushik, Addl. Advocate General, Haryana.

Mr. D.S. Patwalia, Senior Advocate with
Mr. A.S. Chaddha, Advocate
Mr. Anurag Jain, Advocate
Mr. Anmol Singh, Advocate
for respondent No.6.

Mr. Ankur Sheoran, Advocate for
Mr. Samrat Malik, Advocate
for respondents No.5, 7, 8 and 9.

ASHWANI KUMAR MISHRA, J. (Oral)

1. The petitioners in this writ petition are nine in number who have been regularly appointed in the services of different Government-run Polytechnics in the State of Haryana. They are aggrieved by a decision taken by the State in its policy dated 16.06.2014 (Annexure P-32), under which the regularization policy dated 07.03.1996 that stood shelved on 08.12.1997, has been revived and consequential orders have been passed on 29.08.2014 (Annexure P-33), whereby private respondents No.5 to 9 have been regularized w.e.f. 31.01.1996, on completion of 02 years of service. The petitioners contend that



they have been substantively appointed in the service between 1997 to 2004, and stand much higher in seniority over private respondents, but on account of the impugned policy decision of the State, the private respondents who have been substantively appointed much later, would steal a march over them and would be placed higher in seniority by treating their appointment w.e.f. 31.01.1996.

2. Before we delve into the respective contentions urged in the matter, it would be appropriate to notice essential facts of the case itself. Private respondents No.5, 6 and 7 were appointed on *ad hoc* basis as System Analyst/programmer on 17.10.1993. They continued to work as such. Pursuant to regular vacancies advertised, these persons then applied for regular appointment against substantive vacancies. Respondents No.5 and 6 were substantively appointed on 26.02.2007 and 06.03.2007, respectively. These respondents i.e respondents No. 5 and 6 accepted the substantive appointment from the date of such order and not only joined but also continuously worked thereafter. So far as respondent No.7 is concerned, he was not able to secure fresh substantive appointment in the subsequent recruitment exercise and in terms of the policy of the State for regularization, his services came to be regularized on 06.03.2012. Similarly, respondent No.8, though appointed earlier on 19.08.1992 came to be regularized on 06.03.2012. Respondent No.9 was also appointed on *ad hoc* basis in 1993, and he too was appointed on regular basis on 31.12.2003 in an open selection. He has also been promoted on 18.10.2007 to the post of Senior Lecturer. None of the private respondents have either challenged their regular recruitment or their regularization in terms of the policy from the specified dates. However, on account of the impugned action, all the private respondents are now granted entry into service consequent upon their



regularization w.e.f. 31.01.1996. The facts, noticed above, have been reproduced in a chart contained in para 10 of the writ petition, which is extracted hereunder:-

<i>Sr. No.</i>	<i>Name of the Private Respondents</i>	<i>Date of appointment on adhoc basis as System Analyst/Programmer</i>	<i>Date of appointment on regular basis</i>	<i>Date of regularization</i>	<i>Proposed date of regularization by way of the impugned policy</i>
1.	<i>Sunil Kumar (respondent No.5)</i>	<i>17.10.1993</i>	<i>26.02.2007</i>	<i>Nil</i>	<i>31.01.1996</i>
2.	<i>Ajit Kumar (respondent No.6)</i>	<i>17.10.1993</i>	<i>06.03.2007</i>	<i>Nil</i>	<i>31.01.1996</i>
3.	<i>Ajay Kumar (respondent No.7)</i>	<i>17.10.1993</i>	<i>--</i>	<i>06.03.2012</i>	<i>31.01.1996</i>
4.	<i>Krishan Lal (respondent No.8)</i>			<i>06.03.2012</i>	<i>31.01.1996</i>
5.	<i>Dinesh Singh (respondent No.9)</i>	<i>1993</i>	<i>31.12.2003 as Lecturer and further promoted as Senior Lecturer vide order dated 18.10.2007 (P-14)</i>	<i>Nil</i>	<i>31.01.1996</i>

3. We may note that the facts stated in the aforesaid chart remains undisputed.

4. It transpires that the State of Haryana came up with the policy of regularization in the year 1996 (Annexure P-28), on 07.03.1996, in respect of Class-II employees who were appointed on *adhoc* basis. This policy is reproduced as under:-

“I am directed to invite your attention on the subject noted above and to say that the matter regarding regularizations of adhoc class II employees has been engaging the attention of Government, for some time past and it has now been decided to regularize the services of adhoc class II employees, if they fulfill the following conditions:-



(i) that only such adhoc employees as have complete two years service on 31.1.1996 and were in service on that date. However, break in services rendered on adhoc basis upto a period of one month may be condoned excluding breaks occurring because of the concerned employee, having left service of his own volition or where the adhoc appointment was against a post of vacancy for which no regulars recruitment was required or intended to be made i.e. leave arrangements or filling up of other short time vacancies may not be condoned.

(ii) that the employees should have been recruited through the Employment Exchange or directly appointed by the appointing authority after obtaining the non-availability certificate from the Employment Exchange or appointed as per the approved procedure as in the case of Lecturers in Colleges;

(iii) that the employees possessed the prescribed qualification for the posts at the time of their appointment on adhoc basis;

(iv) that the work and conduct of such employees shall be of overall good category and no disciplinary proceedings are pending against them; and

(v) that the employees shall be registered against the posts or vacancies of relevant categories.

However, the employees who have been promoted on adhoc basis pending recruitment by Haryana Public Service Commission will not be covered under this decision.

2. Government have also taken a decision to take out all such Class-II posts, as have been held for a minimum period of two years on 31.1.1996 by Class-II employees on adhoc basis and who satisfy the above conditions of regularization, from the purview of the Haryana Public Service Commission. However, notifications amending the Haryana Public Service Commission (Limitation of Functions) Regulation, 1973 will be issued only after the designation and number of the posts to be taken out of the purview is ascertained. It is, therefore, requested that designation and number of posts as have been held for a minimum period of two years on 31.1.1996 by Class-II employees adhoc basis and who satisfy the condition of regularization may be supplied to this office within a period of 15 days on so that the required notification is issued.

3. The seniority of the adhoc Class-II employees so regularized with effect from the 31.1.1996, viz-a-viz the Class-II employees appointed on the same date on regular basis shall be determined with effect from 31.1.1996. The inter-se-seniority of such adhoc Class-II employees shall be determined in accordance with the date of their joining the post on adhoc basis. If the date of joining the post(s) on adhoc basis by such adhoc employees was the same, then an order employee shall rank, senior to an employee younger in age. If the date of appointment of the direct recruit and the date of regularization of adhoc employee in the same, the direct recruit shall be senior.



4. *It is further pointed out that keeping in view the impact of regularization of Class-II adhoc employees the number of available vacancies in the department may undergo a change and affect the requisition already sent to Haryana Public Service Commission for advertisement. It is, therefore, requested that where the vacancies have not yet been advertised, the requisition may be withdrawn from the Haryana Public Service Commission and a fresh requisition after recalculating the vacancies be sent to Haryana Public Service Commission."*

5. The policy of regularization dated 07.03.1996 came to be withdrawn by the State of Haryana on 08.12.1997, vide policy decision contained in Annexure P-29, which is extracted herein:-

"I am directed to invite your attention to Haryana Govt. letter No. 6/38-95-2 GSI, dated 7.3.1996 vide which instructions were issued to regularise the services of those adhoc Class-II employees who had completed two years of adhoc services on 31.1.1996 and were in service on that date and also fulfilled other conditions laid down therein.

2. *The Hon'ble Supreme Court vide its orders dated 1.10.1997 advertised in the case of P. Ravindran Vs. Union Territory of Pondicherry and others, (1997) 1 SCC 3507" has deprecated the practice of regularisation of services of adhoc employees as a substitute for the appointee recommended by the Public Service Commission.*

3. *Keeping in view the "orders of the Apex Court, the matter has been considered by the Government and it has now been decided that the instructions issued by the State Government vide Endst. No. 6/38/92-2 GSI, dated 7.3.1996 regularizing the services of adhoc Class-II employees should be withdrawn with effect from the date of their issue.*

4. *Accordingly the said instructions are hereby withdrawn with effect from the date of their issue i.e. 7.3.1996. However, the adhoc Class-II employees shall continue to hold their posts till they are employed by the regular recommendees of the Haryana Public Service Commission."*

6. The rationale for withdrawal of the regularization policy dated 07.03.1996 was the observations made by the Hon'ble Supreme Court in the case of '**P. Ravindran vs. Union Territory of Pondicherry and others', (1997) 1 SCC 3507.**

7. The policy dated 07.03.1996 provided for regularization on *adhoc* services in Class II post. Ordinarily, appointments on such posts are to be made



through Public Service Commission. The issue before the Supreme Court in ***P. Ravindran*** (supra) was as to whether the jurisdiction of the Commission could be ousted while regularizing the services of *ad hoc* employees appointed to Class-II posts. It is in this context that the Supreme Court observed as under:-

“3. Shri K.M.K. Nair, learned counsel for the petitioners, contended that the petitioners are postgraduates, M.Phil and Ph.D., and they are highly qualified and have acquired experience from 1987 as lecturers. When they were appointed, number of vacancies were available. Since they have been working since 1987, they require to be regularised by suitable directions. We find no force in the contention. The admitted position is that the Commission having been entrusted with the constitutional duty to select suitable candidates by inviting applications from the open market, every candidate has a fundamental right to seek consideration and for selection through open competition. The petitioners also have that right. At one time, they staked their claims but were not selected. Therefore, the process of recruitment through the Commission, as envisaged under the Constitution, cannot be bypassed by issuing direction for regularisation of the services of the ad hoc persons who had come to the service through back-door entry. This Court in a catena of decisions has deprecated this practice of regularisation except in extraordinary cases by directing the Government to frame a scheme and regularise Classes III and IV services in accordance with the scheme. Even in subsequent decisions, that leverage is not being insisted upon. This Court in J&K Public Service Commission v. Dr Narinder Mohan had held that the Court cannot adopt hybrid process of direction to regularise the services bypassing the process of selection envisaged under the Constitution. This Court has deprecated the Government for exercising the power under Article 320 of the Constitution taking out the posts from the purview of the Commission and to regularise services dehors the Commission. Under those circumstances, we are of the view that the Tribunal has rightly rejected the claim to grant the relief sought for.”

8. We may note that the State of Haryana, in exercise of the powers conferred by the proviso to clause 3 of Article 320 of the Constitution of India, has framed Haryana Public Service Commission (Limitation of Functions) Regulations, 1973 (hereinafter referred to as ‘1973 Regulations’). These regulations contemplate that consultation with Haryana Public Service Commission would be necessary for appointment to Class-II posts. Article 320 of the Constitution of India provides for functions of Public Service



Commissions. By virtue of clause 3(a) of Article 320, the State Public Service Commission is required to be consulted on all matters relating to methods of recruitment to civil services and for civil posts. By virtue of such provision, the Class-II posts in the State of Haryana would be required to be filled up on the basis of consultation made with the Public Service Commission. The State has framed the 1973 Regulations, whereby the plenary powers referred to in clause 3(a) of Article 320 has been curtailed and the exigencies referred to in Regulation 3 of 1973 Regulations would stand ousted from the purview of Public Service Commission. Schedule A of the 1973 Regulations is referable to, specifically to Regulation 3(b), and specifies the posts which had been ousted from the purview of the Commission. Insofar as the Class-II posts with which we are currently concerned, there is no provision in the 1973 Regulations ousting it from the purview of the Public Service Commission. All the posts falling in Class-III and IV have otherwise been kept out of the purview of the Commission.

9. Learned State counsel informs us that recruitment to gazetted posts in Class-III continue to be within the purview of the Public Service Commission. It is therefore apparent that the legislative intent of filling up of posts by the Commission has been followed in the State of Haryana, and all Class-II posts including the post in question, would have to be filled by way of recruitment through Public Service Commission.

10. What transpires in the facts of the present case is that the private respondents were appointed on *ad hoc* basis without consultation with the Public Service Commission. Such *ad hoc* continuance of the private respondents is from different dates as have been noted above. The private respondents not only



continued in their *ad hoc* capacity, but have subsequently been either regularized under the policy of the State or have been offered substantive appointment consistent with the requirements of the law. Such appointments have been offered way back in the years 2003 to 2007. All the private respondents have accepted their regularization/substantive appointment and are working as such. Though writ petitions were filed by certain candidates challenging the decision of the State to withdraw the regularization policy, but those petitions have ultimately been withdrawn in the year 2016.

11. The policy of the State framed in the year 1996 providing for regularization on Class-II posts upon completion of 02 years of service was subsequently withdrawn on the basis of observations made by the Supreme Court in ***P. Ravindran*** (supra). The position continued as such, and no fresh policy was introduced later. In what circumstances and manner an order of regularization would be passed, has been commented upon by the Constitutional Bench of the Supreme Court in ***Secretary, State of Karnataka and others vs. Umadevi and others, 2006 AIR (SC) 1806***. The general policy of regularization also notices that regularization would ordinarily not be a mode of appointment and would be an exception to the rules of recruitment depending upon justifiable circumstances. The justifiable circumstances have been recognized to be the cases where someone has worked for a very long period of time. In ***Umadevi and others*** (supra), such period has been specified as 10 years. The State has subsequently framed a policy on 29.07.2011 (Annexure P-23), as per which regularization would be possible only where an employee has continued to work for not less than 10 years as on 10.04.2006 and is still in service on the date when such policy was introduced. It is pursuant to such policy that some of the



private respondents have been regularized. There is thus no policy of the State post the Supreme Court judgment in *P. Ravindran* (supra) or the Constitutional Bench judgment in *Umadevi and others* (supra), which vests discretion in the State to provide for regularization only on the strength of working for 02 years.

12. Even otherwise, we find that once recruitment to Class-II posts fell within the purview of the Public Service Commission, it was not open for the State to come out with a policy which had the effect of regularizing such appointments on completion of 02 years of service. The policy framed in 1996 was consequently withdrawn for such reasons on 08.12.1997. The position in law with regard to regularization has since been settled by the Supreme Court in *Umadevi and others* (supra), post 2006, it would therefore be difficult to conceive of a policy which provides for regularization of services of those appointed Class-II posts on completion of 02 years of service. This is more so, as the recruitment on such post is otherwise required to be made through the Public Service Commission. In such circumstances, the decision taken by the State in the year 2014 reviving the policy of regularization which stood discontinued, would have to be examined.

13. The State has filed its reply in the matter and from its perusal, it does not appear that any valid justification has been placed on record to indicate the rationale for revival of 1996 policy of regularization, which stood discontinued on 08.12.1997. The private respondents only contend that as regularization policy was implemented for others, therefore, the decision of the State to revive such policy merely eliminates the element of arbitrariness meted out to private respondents on account of non-regularization of their services on



completion of 02 years of service. This justification offered by the respondents cannot find approval of the Court in view of the fact that the recruitment on Class-II posts was required to be made through Public Service Commission, and no principle of law otherwise justifies regularization on the strength of working for a period of 02 years.

14. In the light of the principles settled in *Umadevi and others* (supra), we do not find any justification for the State Government to have come out with a policy by which regularization could be allowed on completion of 02 years of service on a Class-II post. This is more so, as the recruitment was required to be made through the Public Service Commission. We may, at this stage, refer to the Constitutional Bench judgment of the Supreme Court in *State of U.P. vs. Manbodhan Lal Srivastava, 1957 AIR SC 912*, wherein the powers available to the Public Service Commission under Article 320(3)(c) fell for consideration before the Court. In *Manbodhan Lal Srivastava* (supra), the Supreme Court was dealing with a case of disciplinary action against an employee of the State. It was in this context that the Court proceeded to hold that consultation with the Commission is not mandatory on account of use of expression ‘shall’. The judgment of the Supreme Court in *Manbodhan Lal Srivastava* (supra) has recently fallen for consideration by the Supreme Court in *Mandeep Singh and others vs. State of Punjab and others, 2025 INSC 834*. The Supreme Court in paragraphs No.18 to 25 has examined the judgment of the Supreme Court in *Manbodhan Lal Srivastava* (supra), and has distinguished it in the matters of recruitment by observing that the case in *Manbodhan Lal Srivastava* (supra) related to disciplinary action and not recruitment. The Supreme Court has therefore construed the provisions of Article 320 to be mandatory in nature,



when it comes to recruitment on a public post covered within the jurisdiction of the Public Service Commission.

15. Both, for the reasons enumerated by the Supreme Court in *Umadevi and others* (supra) and the principles laid down in *Mandeep Singh and others* (supra), we have no hesitation in coming to the conclusion that the State was not justified in coming out with a policy reviving the provision of regularization on completion of 02 years of service on a Class-II post.

16. There is another aspect which needs to be taken note of at this stage. It is not in dispute that all the petitioners were regularly recruited in accordance with the applicable provisions between 1997 to 2004. Having so appointed, these persons have become the members of service and are entitled to service benefits, including the seniority in the respective cadre. As per the seniority list, all the private respondents were junior to the petitioners inasmuch as their induction into service was of subsequent dates i.e. from 2003 to 2012. The seniority list recognizing the petitioners as senior to private respondents has not been challenged. Such seniority, however, stands dislodged on account of the impugned action as all the private respondents have been granted benefit of regularization from 1996, thereby placing the private respondents above the petitioners in the seniority list. It is by now well-settled that long standing seniority is to be respected and ought not to be dislodged ordinarily. The effect of the impugned action runs contrary to such principle. On account of the impugned action, all the petitioners are prejudiced as they would lose their seniority in the respective cadre. The impugned action therefore causes prejudice to the petitioners and such action would be impermissible, once we acknowledge the principle of protection of long standing seniority.



17. Viewed from the aforesaid aspects, we come to the inescapable conclusion that the impugned action of State in reviving the policy of regularization on Class-II posts upon completion of 02 years of service by the impugned decision dated 16.06.2014 (Annexure P-32) as well as consequential grant of regularization from retrospective date vide Annexure P-33 dated 29.08.2014, cannot be sustained. The Writ Petition, therefore succeeds and is allowed. The impugned policy dated 16.06.2014 (Annexure P-32) as well as consequential regularization from retrospective date vide Annexure P-33 dated 29.08.2014, are set aside.

18. At this stage, we may indicate that the general policy of regularization framed by the State of Haryana is neither the subject matter of challenge before us, nor any observations made in this judgment can be construed as adversely impacting the benefit of regularization. We may also note that the policy of 1996 is also not the subject matter of challenge before us, and as such any observations herein would have no impact upon it. We are only concerned with the revival of the policy of 1996, vide impugned action, which alone is being interfered with.

19. Pending applications, if any, shall stand disposed of accordingly.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

JANUARY 28, 2026
mohit goyal

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No