



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

CWP-9385-2011 (O&M)
Date of decision: 05.02.2026

Barjinder Kumar and othersPetitioners

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. G.S. Bal, Senior Advocate with
Mr. Dilshad Singh Gill, Advocate
for the petitioners.

Mr. Vikas Arora, DAG, Punjab.

Ms. Deepali Puri, Advocate
for the respondent-PUNSUP.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition 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 advertisement (Annexure P-32) to the extent of inviting applications for recruitment of Drivers (17 posts) and also a writ in the nature of *mandamus* directing the respondents to regularize the services of the petitioners as Drivers.

2. Learned counsel for the petitioners *inter alia* contends that petitioners were appointed as Drivers on contract basis in the year 2006 as discernible from their appointment letters (Annexures P-3 to P-15). He further submits that they have been continuously working on the post of Driver for the last 19 years, without there being any complaint to their work and conduct, against a fixed monthly salary of Rs.7,000/- per month. The petitioners have been constantly requesting respondent No.2 to regularize their services and also



moved representations dated 17.09.2008 and 07.04.2011 to this effect, which remained unheeded. However, instead of regularising the services of the petitioners, respondent No.2 has invited applications for recruitment to various posts including 17 posts of Drivers vide advertisement dated 30.04.2011 (Annexure P-32) in The Tribune.

3. Per *contra*, learned counsel for respondent No.2 submits that the petitioners do not have the minimum educational qualification of middle pass with Punjabi language, as required for their regularization to the post of Driver. In any case, the petitioners were not engaged by employing the prescribed procedure and therefore, they are not entitled to regularization of service in terms of the judgment rendered by the Hon'ble Supreme Court in ***State of Karnataka vs. Umadevi (2006) 4 SCC 1***. Learned counsel further contends that the petitioners had not even acquired the status of work charge or ad hoc employees and thus, they cannot do not possess a vested right for regularization.

4. Having heard learned counsel for the parties and after perusing the record with their able assistance it transpires that the petitioners have been continuously serving the respondent-Corporation as Drivers since their initial appointment in the year 2006. The respondent-Corporation was aware throughout this time period that the essential qualification for the post of Driver includes passing middle school with Punjabi, which the petitioners did not satisfy. At no stage did the petitioners engage in any misrepresentation with regards to their educational qualifications and as such, they cannot be made to face the brunt of the laxity displayed by the respondent-Corporation in engaging their services for about two decades, against the prescribed norms.



Moreover, it is not the case of the respondents that the petitioners are incompetent or that their job has a temporary nature, as evident from the fact that the respondent-Corporation has taken benefit of the services of the petitioners for decades since they first joined in the year 2006. Thus, it would not satisfy objective standards of reason and justice to deny the petitioners the fruits of regularization citing lack of educational qualifications and conduct a fresh recruitment process to the posts they have been serving at since the year 2006.

5. This Court has been constrained to observe a trend where long term employees are engaged on ad hoc basis, in spite of the perennial nature of the services rendered by them. The State, being a constitutional employer, cannot be allowed to exploit its temporary employees under the garb of lack of sanctioned posts or inability of the employees to meet educational qualifications for regular posts, when they have been consistently serving its instrumentality for a significant time period. Such an approach would be violative of fundamental rights of the temporary employees enshrined in Article 14, 16 and 21 of the Constitution of India. Further still, temporary employees cannot be forced to bear the brunt of lack of financial resources when the State had no qualms about continuously taking advantage of the services rendered with regard to integral and recurring work of the concerned department. Reliance in this regard can be placed on the judgments rendered by the Hon'ble Supreme Court in ***Jaggo vs. Union of India and others* 2025 AIR SC 296, *Vinod Kumar and others vs. Union of India* (2024) 9 SCC 327, *Shripaland another vs. Nagar Nigam, Ghaziabad* 2025 SCC OnLine SC 221 and *Dharam Singh and Others vs. State of U.P. and Another* 2025 SCC OnLine SC 1735**



as well as by a Division bench of this Court in *State of Punjab vs. Sarwan Ram and others in LPA No. 2032 of 2024*

7. Recently, a Two-Judge Bench of the Hon'ble Supreme Court in *Dharam Singh and Others vs. State of U.P. and Another 2025 SCC OnLine SC 1735* speaking through Justice Vikram Nath has held as follows:

“11. Furthermore, it must be clarified that the reliance placed by the High Court on Umadevi (Supra) to non-suit the appellants is misplaced. Unlike Umadevi (Supra), the challenge before us is not an invitation to bypass the constitutional scheme of public employment. It is a challenge to the State's arbitrary refusals to sanction posts despite the employer's own acknowledgement of need and decades of continuous reliance on the very workforce. On the other hand, Umadevi (Supra) draws a distinction between illegal appointments and irregular engagements and does not endorse the perpetuation of precarious employment where the work itself is permanent and the State has failed, for years, to put its house in order. Recent decisions of this Court in Jaggo v. Union of India and in Shripal v. Nagar Nigam, Ghaziabad have emphatically cautioned that Umadevi (Supra) cannot be deployed as a shield to justify exploitation through long-term “ad hocism”, the use of outsourcing as a proxy, or the denial of basic parity where identical duties are exacted over extended periods. The principles articulated therein apply with full force to the present case....

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13. As we have observed in both Jaggo (Supra) and Shripal (Supra), outsourcing cannot become a convenient shield to perpetuate precariousness and to sidestep fair engagement practices where the work is inherently perennial. The Commission's further contention that the appellants are not “full-time” employees but continue only by virtue of interim orders also does not advance their case. That interim protection was granted precisely because of the long history of engagement and the pendency of the challenge to the State's refusals. It neither creates rights that did not exist nor erases entitlements that may arise upon a proper adjudication of the legality of those refusals.

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17. Before concluding, we think it necessary to recall that the State (here referring to both the Union and the State



governments) is not a mere market participant but a constitutional employer. It cannot balance budgets on the backs of those who perform the most basic and recurring public functions. Where work recurs day after day and year after year, the establishment must reflect that reality in its sanctioned strength and engagement practices. The long-term extraction of regular labour under temporary labels corrodes confidence in public administration and of ends the promise of equal protection. Financial stringency certainly has a place in public policy, but it is not a talisman that overrides fairness, reason and the duty to organise work on lawful lines.

18. Moreover, it must necessarily be noted that “ad-hocism” thrives where administration is opaque. The State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious engagement over sanctioned posts where the work is perennial. If “constraint” is invoked, the record should show what alternatives were considered, why similarly placed workers were treated differently, and how the chosen course aligns with Articles 14, 16 and 21 of the Constitution of India. Sensitivity to the human consequences of prolonged insecurity is not sentimentality. It is a constitutional discipline that should inform every decision affecting those who keep public of ices running.” (Emphasis supplied)

8. It also appears that both the States of Punjab and Haryana tend to formulate policies in order to circumvent implementation of judgments rendered by the Constitutional Courts. More often than not, the claim for regularization is neither accepted nor denied and the applicant is kept in limbo unnecessarily. The extended ad-hocism of keeping daily wage workers or contractual employees on temporary rolls for decades while extracting regular work is not only unconstitutional but undermines equality and dignity.

9. In the wake of above discussion and findings, this Court is of the considered opinion that the present petition deserves to be allowed. The respondents are directed to regularize the services of the petitioners within 06 weeks from today. If no order of regularization is passed within 06 weeks from



today, the petitioners shall be deemed to be regularized. The petitioners shall be entitled to counting of past service and other benefits as per judgment rendered by this Court in *Amrish Sharma and others vs. State of Punjab and others in CWP-19238 of 2013 decided on 26.02.2024*.

10. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

05.02.2026
Neha

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