

**CWP-32139-2019 (O&M)****1**

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

CWP-32139-2019 (O&M)**Reserved on: 16.04.2026****Pronounced on: 02.07.2026****Uploaded on: 02.07.2026****AMRIK SINGH****-PETITIONER****V/S****STATE OF PUNJAB AND OTHERS****-RESPONDENTS****CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. G.S. Bal, Sr. Advocate, assisted by
Mr. Avtar Singh, Advocate, and
Ms. Gurneet Kaur, Advocate
for the petitioner.

Mr. Amit Kumar Goyal, Addl. A.G., Punjab.

KULDEEP TIWARI, J.

1. Through the instant writ petition, the petitioner assails the legality and validity of the order dated 03.10.2019 passed by respondent No.4- Executive Engineer, Water Supply and Sanitation Division, Rajpura, whereby his claim for regularization of service has been rejected principally on the ground that he does not possess the prescribed educational qualification for the post. The petitioner further seeks a direction to the respondents to regularize his services with effect from December 2006, i.e. the date on which he claims to have completed 10 years of continuous service, and to extend to him the minimum pay scale admissible to the post of Pump Operator.

2. It is imperative to record at the outset that there is no wrangle

**CWP-32139-2019 (O&M)****2**

between the contesting litigants that the petitioner does not possess the requisite qualification of an ITI certificate/diploma in the essential trade prescribed for appointment as a Pump Operator. Nevertheless, the petitioner predicates his claim for regularization primarily on the principle of parity with a similarly situated employee, namely Jagpal Singh, who was also not possessed of the prescribed qualification, yet whose services came to be regularized pursuant to the order dated 08.09.2014 rendered by a Coordinate Bench of this Court in ***CWP No.23430 of 2012***, titled “***Jagpal Singh vs. State of Punjab and others***”. The said order was unsuccessfully challenged by the State of Punjab in Letters Patent Appeal No.113 of 2015 and was affirmed by a Division Bench of this Court vide order dated 03.03.2015.

3. It is further apposite to note that the present proceedings constitute the second round of litigation arising out of the same cause of action. The petitioner had earlier approached this Court by filing CWP No.2863 of 2012, which came to be disposed of by a Coordinate Bench vide order dated 02.07.2019 with a direction to the respondents to consider and decide his claim in the light of the law laid down in ***Jagpal Singh’s case (supra)***. In compliance thereof, the impugned order dated 03.10.2019 was passed rejecting the claim of the petitioner for regularization on the following grounds:-

“(i) While disposing of CWP No.2863 of 2012, this Court had not issued a direction for regularization of the petitioner’s services akin to that granted in Jagpal Singh’s case (supra), but had merely directed to pass a speaking order after considering merit of his case; and

(ii) The petitioner does not possess the essential educational qualification prescribed for the post of Pump Operator, namely



matriculation coupled with a two-year certificate from an Industrial Training Institute in the relevant trade.

4. Thus, having failed to secure the benefit of regularization accorded to his similarly situated counterpart, Jagpal Singh, the petitioner has once again invoked the writ jurisdiction of this Court, challenging the order dated 03.10.2019 and seeking consequential relief of regularization.

5. Before advertng to the rival submissions, it would be appropriate to briefly delineate the factual backdrop of the case. According to the petitioner, he was appointed as a Pump Operator in the respondent-department on 01.10.1996 through the Employment Exchange on a consolidated salary of Rs.3,200/- per month. His services were terminated with effect from 18.04.1999, whereupon he raised an industrial dispute by serving a demand notice. The dispute was eventually referred to the Labour Court for adjudication. The respondent-department chose not to contest the proceedings and was proceeded against *ex parte*. Consequently, the reference was answered in favour of the petitioner vide award dated 02.12.2002, whereby his reinstatement with continuity of service and full back wages was directed.

6. The petitioner thereafter undertook several measures to secure implementation of the award, which ultimately bore fruit when the Assistant Labour Commissioner, vide communication dated 01.02.2008, called upon the respondent-department to comply with the award or face the statutory consequences. Resultantly, the petitioner was reinstated in service on 01.08.2008.

7. Upon resumption of duty, the petitioner submitted a



representation seeking regularization of his services with effect from December 2006, asserting that by virtue of the award granting continuity of service, he had completed 10 years of continuous service by that date and was, therefore, entitled to consideration under the policy/instructions dated 18.03.2011 issued by the State of Punjab. However, as noticed hereinabove, his claim was rejected primarily on the ground that he lacked the prescribed qualification for appointment as a Pump Operator.

8. Learned senior counsel appearing on behalf of the petitioner vehemently contends that the petitioner stands on an identical footing with Jagpal Singh, a similarly situated employee, whose services were regularized notwithstanding the fact that he too did not possess the prescribed qualification of an ITI certificate/diploma in the essential trade. It is submitted that such regularization was granted pursuant to the order dated 08.09.2014 rendered by a Coordinate Bench of this Court in CWP No.23430 of 2012 and the said order has attained finality. On the strength of the principle of parity, it is argued that the petitioner cannot be denied the same relief and is entitled to be treated alike.

9. *Per contra*, learned State counsel representing the respondent-department supports the impugned order and reiterates the reasons recorded therein for declining the benefit of regularization to the petitioner. It is contended that since the petitioner, admittedly, lacks the requisite educational qualification prescribed for the post of Pump Operator, he is not entitled to claim regularization.

10. During the course of hearing, a specific query was put to learned State counsel as to how the case of the petitioner could be



distinguished from that of Jagpal Singh, whose services stood regularized pursuant to the order of this Court, which order was subsequently affirmed by the Division Bench and thereby attained finality. Learned State counsel was unable to point out any distinguishing feature which would justify denial of similar relief to the petitioner. The only contention advanced was that the instant writ petition deserves dismissal on the ground of delay and laches.

11. Having heard learned counsel for the parties and upon a careful examination of the record, the question that emerges for determination is whether an employee who did not possess the prescribed qualification for a post at the time of his initial appointment can nonetheless claim regularization of service. The answer to this question must necessarily be in the negative. A person who lacks the essential educational qualification prescribed for a post would not be entitled to appointment thereto in the first instance, whether on a regular or contractual basis, much less to claim regularization.

12. However, a Coordinate Bench of this Court, while adjudicating an identical controversy in *Jagpal Singh's case (supra)*, noticed that the employee therein had continuously served the department since the year 1989 and had discharged the duties of a Pump Operator to the satisfaction of the authorities throughout that period. In view of his long and satisfactory service, the absence of the requisite diploma in the relevant trade was held to be inconsequential. Accordingly, vide order dated 08.09.2014, the Coordinate Bench, after taking into consideration the mitigating circumstances, directed the respondents to consider the case of the petitioner



therein for regularization and to grant him the benefit thereof with effect from the date of his entitlement, along with all consequential benefits. The relevant operative portion of the order reads thus:-

“On due consideration of the matter, I find that the reasoning adopted by the respondents is unacceptable. The petitioner has been in service with the respondents since 1989 and performing the work of a pump operator since then. There is nothing to suggest that his work and conduct is unsatisfactory. If he has been performing satisfactorily then after a lapse of more than three decades he cannot be refused the benefit of regularisation on this score. By this time the petitioner would have forgotten even the trade in which he had acquired the diploma and would have become proficient in the job of pump operator he is performing, due to his experience.

For the aforesaid reasons, impugned order suffers from grave infirmity and is accordingly set aside. Writ petition is disposed of with a direction to the respondents to consider the case of the petitioner for regularization in the light of what has been observed above and grant the benefit to the petitioner with effect from the date of his entitlement with all consequential benefits. Let needful be done positively within a period of four months from the date of receipt of the certified copy of this order.”

13. Although the order dated 08.09.2014 was assailed by the State of Punjab by way of an intra-court appeal, i.e. LPA No.113 of 2015, the same was dismissed by the Division Bench vide order dated 03.03.2015. The Division Bench observed that the Single Judge had rightly held that the work, conduct and performance of duties of the employee had always been to the complete satisfaction of the authorities, and that the rich experience gained by him while working as a Pump Operator was invaluable and stood on an equal footing with that of an employee possessing an ITI certificate. It was further observed that, since the employee had already spent the better-



CWP-32139-2019 (O&M)

7

half of his life in the service of the department, he deserved the status and security of a regular employee. It was, however, clarified by the Division Bench that the aforesaid observations shall neither be construed as a relaxation of the Government policy dated 18.03.2011 nor as dispensing with the requirement of compliance therewith, as it was only in the peculiar facts and circumstances of the case that one of the conditions had been liberally construed. The relevant observations of the Division Bench are extracted hereunder:-

“Having bestowed our thoughtful consideration to the submissions made by learned counsel for the State, we are satisfied that no interference in the order under appeal is called for. We say so for the reason that the respondent is admittedly working as a Pump Operator since the year 1989. Learned Single Judge has rightly observed that his work and conduct and performance of duties has always been up to the entire satisfaction of the authorities. Rich experience gained by the respondent while working as Pump Operator is in-valuable and stands on equal footing if compared with an employee possessing the certificate from ITI.

The claim of respondent has to be considered also from the angle that there are so many instances when daily wage/work charged employees who even do not possess the qualification of Matriculation, have been brought on regular establishment keeping in view the skill and expertise possessed by them. The same analogy would apply in the case of the respondent as well.

XX

XX

XX

The other reason which dissuades us from interfering with the order passed by learned Single Judge is the date of birth of the respondent which is 15.8.1963. He is already more than 51 years old. Hardly 7/8 years are left in his retirement. At this juncture, there is no possibility of getting a new employment. He has already spent better-half of his life in the service of the appellants. He deserves the status and security as a regular employee before he



demits the office on reaching the age of superannuation.

XX

XX

XX

However, it is clarified that neither the above mentioned observations shall be construed as a relaxation of the Government policy dated 18.3.2011 (Annexure P-1) nor the requirement of compliance of that policy has been dispensed with. It is only in the peculiar facts and circumstances of the case in hand that one of the condition has been liberally construed.”

14. In the considered opinion of this Court, the petitioner’s case stands on a footing substantially similar to that of ***Jagpal Singh’s case (supra)***. The petitioner was initially appointed on 01.10.1996 and his services were terminated on 18.04.1999. Although he resumed duties on 01.08.2008, he is deemed to have remained in continuous service by virtue of the award dated 02.12.2002 passed by the Labour Court. Moreover, he continued in service until the submission of the representation seeking regularization of his services. It is also not in dispute that the petitioner is a matriculate and presently possesses a certificate in a one-year vocational course of Electrical Technician, albeit acquired in October 2017. The petitioner has spent more than two decades serving the respondent-department as a Pump Operator to its satisfaction. It is not the case of the respondent-department that the petitioner ever defaulted in the performance of his duties.

15. In such circumstances, the petitioner is entitled to parity of treatment with Jagpal Singh, whose case is indistinguishable on material particulars. Significantly, the respondent-department has been unable to demonstrate any distinguishing feature which would justify denying to the petitioner the relief that stood granted to Jagpal Singh.

**CWP-32139-2019 (O&M)****9**

16. In summa, **the instant writ petition is allowed**. The impugned order rejecting the petitioner's claim for regularization is set aside, being founded upon grounds which cannot withstand judicial scrutiny. The respondent-department is directed to reconsider the petitioner's claim for regularization in the light of the observations recorded hereinabove and to extend the benefit of regularization from the date of his entitlement together with all consequential benefits. This exercise shall be completed within a period of four months from the date of receipt of a certified copy of this order.

17. Pending application(s), if any, also stand disposed of accordingly.

July 02, 2026
devinder

(KULDEEP TIWARI)
JUDGE

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