



CWP-11803-2026

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

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CWP-11803-2026

Date of decision: 20.04.2026

Shindo

....Petitioner

Versus

The Punjab State Power Corporation Limited and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ramesh Chand Sharma, Advocate
for the petitioner.

Ms. Priyanka Dhillon, Advocate
for the respondents/PSPCL.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of mandamus, directing the respondents to regularize the services of the petitioner and grant consequential benefits including pension under Old Pension Scheme as she had rendered service with the respondents as part time Sweeper w.e.f. 1999 till 31.12.2025, keeping in view the law laid down by the Hon'ble Apex Court in **Civil Appeal Nos.3595-3612 of 1999**, titled as *State of Karnata and others vs Umadevi and others* decided on **10.04.2006** reported in **S.C.T 2006(2) 462** (Annexure P-5) as well as the Policy dated 04.03.1999 and judgment dated 23.12.2022 passed by the Division Bench of this Court in **LPA No.95 of 2019** (Annexure P-6).



2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner prays for regularization of her services and all consequential benefits including pension under Old Pension Scheme by counting her service as part time Sweeper w.e.f. 1999 till 31.12.2025. Learned counsel for the petitioner relies upon the judgment rendered by the Division Bench of this Court in **LPA-95-2019**, titled as ***Punjab State Power Corporation Limited and others vs Surinder Singh and others***, decided on **23.12.2022**.

3. *Per contra*, learned counsel for the respondents/Corporation submits that this Court has already dealt with the issue of regularization of part time Sweeper *in extenso* and rendered judgment in **CWP-7614-2024**, titled as ***Surinder Singh vs Punjab State Power Corporation Limited and others***, decided on **22.09.2025**, which was upheld by the Division Bench of this Court in intra-court appeal filed by part-time Sweepers in **LPA-3004-2025**, titled as ***Nathi Ram and others vs Punjab State Power Corporation Limited and others***, decided on **11.11.2025**. As such, the prayer made by the petitioner cannot be considered.

4. Having heard learned counsel for the parties and after perusal of the record, it transpires that the petitioner was appointed as a part-time Sweeper in the year 1999 and she stood retired on 31.12.2025. Further, the issue raised in the present petition is no longer *res integra*. This Court has already considered the case of part-time Sweepers in the light of the judgment relied upon by the present petitioner in ***Surinder***



Singh's case (supra) (LPA-95-2019), and dismissed a bunch of petitions filed by part-time Sweepers seeking regularization, lead case being **CWP-7614-2024**, titled as ***Surinder Singh vs Punjab State Power Corporation Limited and others***, decided on **22.09.2025**. The operative part of the said judgment, reads as follows:-

10. *The question of whether part-time workers can be regularized is no longer res integra. In the **Ilmo Devi's case (supra)** a Two-Judge Bench of the Hon'ble Supreme Court speaking through Justice M.R. Shah has held as follows with regards to the regularization of part-time Sweepers who were working for less than five hours a day:*

“8.6 In the case of Daya Lal & Ors. (supra) in paragraph 12, it is observed and held as under:-

12. We may at the outset refer to the following well-settled principles relating to regularisation and parity in pay, relevant in the context of these appeals:

(i) The High Courts, in exercising power under Article 226 of the Constitution will not issue directions for regularisation, absorption or permanent continuance, unless the employees claiming regularisation had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant posts. The equality clause contained in Articles 14 and 16 should be scrupulously followed and Courts should not issue a direction for regularisation of services of an employee which would be violative of the constitutional scheme. While something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularised, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularised.

(ii) Mere continuation of service by a temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be "litigious employment". Even temporary, ad hoc or daily-wage service for a long number of years, let alone service for one or two years, will not entitle such employee to



claim regularisation, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularisation in the absence of a legal right.

(iii) Even where a scheme is formulated for regularisation with a cut-off date (that is a scheme providing that persons who had put in a specified number of years of service and continuing in employment as on the cut-off date), it is not possible to others who were appointed subsequent to the cut-off date, to claim or contend that the scheme should be applied to them by extending the cut-off date or seek a direction for framing of fresh schemes providing for successive cut-off dates.

(iv) Part-time employees are not entitled to seek regularisation as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularisation or permanent continuance of part-time temporary employees.

(v) Part-time temporary employees in government-run institutions cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. The right to claim a particular salary against the State must arise under a contract or under a statute.

[See State of Karnataka v. Umadevi (3) [(2006) 4 SCC 1], M. Raja v. CEERI Educational Society [(2006) 12 SCC 636], S.C. Chandra v. State of Jharkhand [(2007) 8 SCC 279], Kurukshetra Central Coop. Bank Ltd. v. Mehar Chand [(2007) 15 SCC 680] and Official Liquidator v. Dayanand [(2008) 10 SCC 1].

8.7 Thus, as per the law laid down by this Court in the aforesaid decisions part-time employees are not entitled to seek regularization as they are not working against any sanctioned post and there cannot be any permanent continuance of part-time temporary employees as held. Part-time temporary employees in a Government run institution cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work.

(Emphasis added)

11. *In Union of India and Ors. v. A.S. Pillai and Ors., 2010(4) S.C.T. 817, a Two-Judge Bench of the Hon'ble Supreme Court denied the relief of regularization*



to part-time workers on the ground that that such employees, not being bound by service rules or departmental regulations applicable to regularly appointed staff, cannot claim parity in terms of equal pay or regularization. The Court emphasized that part-time workers remain at liberty to take up engagements elsewhere, as there is no restraint upon them when they are not serving the authority/employer. Reliance can also be placed on the judgments of the Hon'ble Supreme Court in **Secretary to Government, School Education Department, Chennai v. Thiru R. Govindaswamy 2014(2) SCT 221** and **State of Rajasthan v. Daya Lal, 2011(2) SCC 429**. Further, the Division Benches of the Delhi and Gujarat High Court in **Post Master Main Post Office v. Bir Singh 2023 NCDHC 6087** and **State of Gujarat v. Mahesh Ramjibhai Purabia (R/LPA No. 1142 of 2018)** have relied on the aforementioned judgments and denied the relief on regularization to part-time workers who are not working against any sanctioned posts.

12. Admittedly, the petitioner has been serving as a part-time Sweeper with the respondent/Corporation, not against any sanctioned post, and **for no more than four hours a day** (Annexure P-13). Being engaged only part-time, he remains free to take up employment elsewhere and faces no restraint from working for another establishment during the remaining hours. The contention that such part-time engagement makes it nearly impossible for him to secure work for the rest of the day is founded merely on surmises and conjectures and, therefore, is untenable. This very plea had earlier been rejected by the Hon'ble Supreme Court in the **Ilmo Devi case (supra)** with regards to **part-time workers working for less than five hours in a day**.



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15. This Court is of the opinion that the respondent/Corporation has sufficiently complied with the decision of the Division Bench of this Court in **LPA No. 95 of 2019** by regularizing 352 part-time employees. The Division Bench's judgment is based on the decision in **Uma Devi's case (supra)** and the Court had clearly stated that those employees who had completed 10 years and had the requisite 80% attendance on 10.04.2006 were to be considered for regularization by the respondent/Corporation under the policy dated 04.03.1999 (Annexure P-1). This Court finds merit in the argument of the learned counsel for the Respondents that the object of the policy has been duly achieved and the respondent/Corporation cannot be faulted for rejecting the claim of petitioners who had not completed 10 years of service on 10.04.2006. If the petitioners are directed to be regularized, it would exceed the 25% ceiling created in the 1999 Policy and result in a violation of the said policy.

**ISSUANCE OF A WRIT OF MANDAMUS TO
COMPEL THE RESPONDENT/CORPORATION
TO CREATE OR SANCTION POSTS**

16. The Hon'ble Supreme Court has consistently held that the High Court, while exercising jurisdiction under Article 226 of the Constitution, cannot issue a writ of Mandamus compelling the Department to create or sanction posts. Likewise, it is beyond the Court's authority under Article 226 to require the Government or the Department to frame a specific policy of regularization. The formulation of schemes, as well as the creation or sanctioning of posts, lies exclusively within the prerogative of the Government, and does not fall within the functions of



the Court. Reliance can be placed on *Divisional Manager Aravali Gold Club v. Chander Hass* 2008 (1) SCT 279, *Union of India v. All India Trade Union Congress* (2019) 5 SCC 773, and *Ilmo Devi case* (supra). Para 8.4 and 8.5 of the *Ilmo Devi case* (supra) are reproduced here under:

“8.4 The observations made in paragraph 9 are on surmises and conjunctures. Even the observations made that they have worked continuously and for the whole day are also without any basis and for which there is no supporting evidence. In any case, the fact remains that the respondents served as part-time employees and were contingent paid staff. As observed above, there are no sanctioned posts in the Post Office in which the respondents were working, therefore, the directions issued by the High Court in the impugned judgment and order are not permissible in the judicial review under Article 226 of the Constitution. The High Court cannot, in exercise of the power under Article 226, issue a Mandamus to direct the Department to sanction and create the posts. The High Court, in exercise of the powers under Article 226 of the Constitution, also cannot direct the Government and/or the Department to formulate a particular regularization policy. Framing of any scheme is no function of the Court and is the sole prerogative of the Government. Even the creation and/or sanction of the posts is also the sole prerogative of the Government and the High Court, in exercise of the power under Article 226 of the Constitution, cannot issue Mandamus and/or direct to create and sanction the posts.

8.5 Even the regularization policy to regularize the services of the employees working on temporary status and/or casual labourers is a policy decision and in judicial review the Court cannot issue Mandamus and/or issue mandatory directions to do so. In the case of *R.S. Bhonde and Ors.* (supra), it is observed and held by this Court that the status of permanency cannot be granted when there



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is no post. It is further observed that mere continuance every year of seasonal work during the period when work was available does not constitute a permanent status unless there exists a post and regularization is done.”

(Emphasis added)

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19. *Thus, this Court is of the opinion that the power to create and sanction posts vests exclusively in the executive or legislative authorities, and the Court cannot assume such a function unto itself by directing the creation of posts in any organization. Time and again, the Hon’ble Supreme Court has emphasized that the establishment of a post is inherently an executive or legislative act, one which is also dependent upon economic considerations. Consequently, the judiciary cannot usurp this authority and confer upon itself the power to create posts.*

20. *In the present case, the respondent/Corporation is free to create a fresh policy for regularization of those employees who are similarly situated as the petitioners. This Court, while exercising jurisdiction under Article 226 of the Constitution, cannot issue a writ of Mandamus compelling the Respondents to create or sanction posts for the regularization of part time workers, or to frame a specific policy.*

CONCLUSION

21. *In view of the foregoing discussions, the questions framed above are answered in the following terms:*

(i) Part-time workers not working against any sanctioned posts for a few hours in a day, are not entitled to seek regularization of their service in view of the law settled by the Hon’ble Supreme Court.



*(ii) The petitioner(s) cannot be granted regularization in light of the judgment of the Division Bench in **LPA No. 95 of 2019** since the respondent/Corporation has sufficiently complied with the decision and considered the claim of those employees who had completed 10 years of service and had the requisite 80% attendance on 10.04.2006.*

(iii) This Court cannot issue a writ of Mandamus compelling the respondent/Corporation to create or sanction posts.

22. *Therefore, in view of the foregoing discussions, all the captioned petitions are dismissed.*

5. In view of the judgment rendered by this Court in ***Surinder Singh's case (supra)*** (CWP-7614-2024), the petitioner, being a part-time Sweeper and not working against any sanctioned post, is not entitled to regularization in view of the law laid down by the Hon'ble Supreme Court. The benefit of the judgment passed in **LPA-95-2019** was confined only to those employees who had completed 10 years of service as on 10.04.2006, which does not cover the case of the present petitioner. It is also settled that this Court cannot issue directions for creation of posts or framing of a regularization policy. Accordingly, no ground is made out for interference in the instant writ petition and the same is dismissed, accordingly.

(HARPREET SINGH BRAR)
JUDGE

20.04.2026

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No