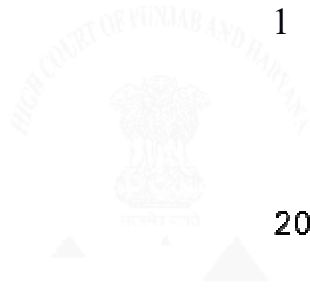


CWP-30287-2025



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

246

CWP-30287-2025

Date of Decision: **December 09, 2025**

Shiv Nath

.....Petitioner

**VERSUS**

Punjab State Cooperative Supply and Marketing Federation Limited and  
another

..Respondents

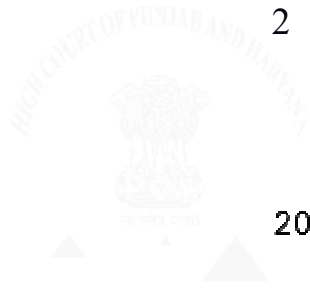
**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present : Mr. Puneet Kumar Bansal, Advocate for the petitioner.

Mr. Vikas Chatrath, Sr. Advocate with Ms. Navdita Rathore  
and Ms. Preet, Advocates for the respondents.

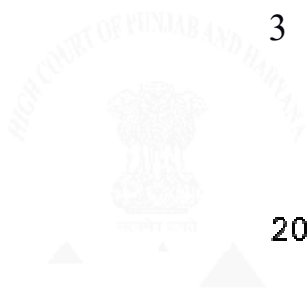
**HARPREET SINGH BRAR, J. (Oral)**

1. The present civil writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of the impugned order dated 30.09.2025 (Annexure P-13) passed by the respondents, whereby the petitioner's claim for regularization of his services has been rejected on the ground that he has not passed the Punjabi language examination at the Middle Standard level.



2. Learned counsel for the petitioner *inter alia* contends that the petitioner was appointed as a Mali in April, 1998 and has been rendering continuous service for over 27 years without any break. He submits that the Government of Punjab's Regularization Policy dated 16.05.2023 (Annexure P-7), entitles employees who have completed ten years of service to be regularized under which the petitioner applied for regularization on 25.08.2023 (Annexure P-8) and, upon not receiving a response, approached this Court by way of CWP No.21336 of 2025, which was disposed of with a direction to pass a speaking order. In compliance, the impugned order was passed, rejecting his claim on the ground that he lacked the requisite educational qualification of passing middle standard with proficiency in Punjabi language . He submits that the ground of rejection is unsustainable, especially in light of the petitioner's long service of 27 years. Further the counsel contends that four similarly situated employees were regularized without insistence on the language qualification. He further places reliance on the judgment of the Division Bench of this Court in ***State of Punjab and others Vs. Sarwan Ram, 2025 NCPHHC 65364*** and the judgment of the Hon'ble Supreme Court in ***Bhagwati Prasad and others Vs. Delhi State Mineral Development Corporation, 1991 (1) SCC 361***.

3. *Per contra*, learned counsel for the respondents submits that the 2023 Policy and the Markfed Common Cadre Rules, 1990, explicitly require the petitioner to possess the minimum qualification, which includes passing the 8th Standard with Punjabi. He argues that the petitioner does not meet



this prerequisite criteria and, therefore, cannot claim regularization. Relying on judgement rendered in *Tata Chemicals Ltd. v. Commissioner of Customs (Preventive), Jannagar 215 AIR (SCW) 3571*, he submits that where a statute or policy prescribes a manner for doing an act, it must be performed in that manner alone. He further argues that the cases of the four employees cited by the petitioner are distinguishable, as they were regularized under different, earlier policies, and the doctrine of negative equality cannot be invoked. He places reliance on *Rajesh Gupta Vs. Punjab & Haryana High Court, 2025 NCPHHC 36129*, and *A. Umarani V. Registrar Cooperative Societies, 2004(4) SCT 728 SC*.

4. I have heard learned counsel for the parties and perused the record with their able assistance.

5. It transpires that the petitioner was appointed as a Mali in April 1998 and has rendered unbroken service for over 27 years. His work and conduct have been satisfactory as nothing against it has been brought in light of this court. The State of Punjab issued a Regularization Policy on 16.05.2023 for employees who have completed ten years of service. The petitioner applied under this policy, and his claim was rejected solely because he does not have a Middle Standard pass certificate with Punjabi.

6. The core issue is whether, after 27 years of continuous service, an employee can be denied regularization solely on the ground of not possessing a formal educational qualification that was never insisted upon



during his decades of service, especially when similarly situated employees have been regularized.

7. This Court is of the opinion that the issue with regard to denial of regularisation on the ground of nonavailability of sanctioned posts or having minimum qualification is squarely covered by the judgment of the Hon'ble Supreme Court in *Nihal Singh v. State of Punjab, (2013) 14 SCC 65* and the judgments rendered by the Division Bench of this Court in *State of Punjab and others Vs. Sarwan Ram, 2025 NCPHHC 65364*.

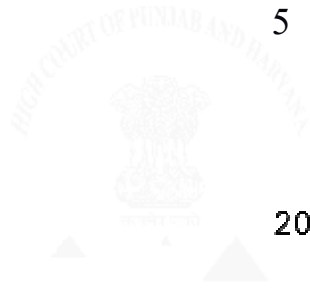
8. The Division Bench of this Court in *Sarwan Ram (supra)*, has categorically held that:

*“19. Under question No.2, while elaborately discussing a plethora of judgments of the Hon'ble Apex Court, it was held that once the employees had worked for a long period, it would be unjustified to deny them benefit of regularization on the ground of not possessing minimum qualification.”*

(emphasis added)

9. A similar issue in this regard came before this court in *Hari Ram v. State of Haryana, CWP-25042 of 2025*, where in this court observed that,

*“6. 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*



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**advantage of the services rendered with regard to integral and recurring work of the concerned department. ....”**

(emphasis added)

10. It is beyond the comprehension of this court that if the requisite qualification was an essential criteria to perform the task, how were the respondents able to extract satisfactory work from the petitioner continuously for 27 long years. The respondents have accepted and benefited from his services throughout these years. This glaring contradiction reveals that the qualification was never treated as a functional prerequisite during his service and is now being deployed as a mere technical shield to deny a rightful claim. Such an approach smacks of arbitrariness and exploitation while also amounting to a gross violation of Articles 14 and 16 of the Constitution.

11. The respondents' reliance on the doctrine of negative equality and the principle that a policy must be followed strictly is misplaced in the face of the constitutional mandate against exploitation and arbitrariness. When a constitutional right is violated, technicalities of policy cannot override substantive justice. The respondents' own record shows that other employees were regularized without this qualification under earlier policies. To deny the petitioner, who has served far longer, the same benefit under a subsequent welfare policy is palpably discriminatory.

12. In view of the above discussion the present petition is accordingly allowed. The respondents are directed to ensure that the petitioners are regularised within six weeks from the date of receipt of

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certified copy of this order by the competent authorities. If not, the petitioners shall be deemed to be regularised on the expiry of six weeks from the date of receipt of certified copy of this order. The petitioners shall be entitled to counting of past service and other benefits as per judgments of this Court in *Harbans Lal v. State of Punjab, CWP No.2371 of 2010* and *State of Haryana and others v. Jai Bhagwan, LPA No.1892 of 2019*.

13. Pending miscellaneous application(s), if any, be also disposed of accordingly.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**December 09, 2025**

*P.C*

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