

**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI****WRIT PETITION NO: 18190 of 2005**

D.srinivasulu Reddy, Prakasham District.

...Petitioner

Vs.

State Of Ap By Secy To Govt Fp Dept Hyd 3
Ors and Others

...Respondent(s)

Advocate for Petitioner:

A V S LAXMI

Advocate(s) for Respondent(s):

MALLIKHARJUNA RAO
PULUGU (SC FOR GIRIJAN
COOPERATIVE
CORPORATION LTD), P V V
SATYANARAYANA (SC FOR
GIRIJAN C O), GP FOR
SERVICES I , GP FOR
SERVICES 1., GP FOR
FINANCE & PLANNING**CORAM : SRI JUSTICE CHALLA GUNARANJAN****DATE : 19th February 2026****The Court made the following order:**

The present writ petition is filed seeking the following relief:

“....to issue a writ of mandamus or any other appropriate writ or writs order or direction declaring the proceedings dated 30.07.2005 in Rc.No.164/99 LE/A7 on the file of the 2nd respondent as illegal, arbitrary and without jurisdiction by

consequently directing the respondents to forthwith regularise the services of the petitioner with effect from the date of his completing 5 years of service in any suitable post by extending scale of pay and all other attendant benefits award costs and pass such other or further orders as are deemed fit and proper in the circumstances of the case.”

2. (a) The petitioner stated to have appointed as NMR on 27.06.1990 and posted at GPCMS, Chittoor. He possessed degree in Bachelors of Commerce along with Typing; hence, he was assigned with the duties of Typist. Later, he was posted to work at GPCMS, Nellore, with effect from 05.02.1997 and accordingly, has been working at the said station so far. That being so, there was an attempt made to disengage the services of the petitioner, which lead to filing of W.P.No.1869 of 1996, in which this Court has directed the respondents to continue the petitioner and accordingly, he has been continuing thereafter.

(b) Later, the petitioner stated to have made multiple representations seeking for regularization of his service, one such request was made on 04.04.2005. The said request came to be eventually rejected by the 2nd respondent *vide* orders dated 30.07.2005. The reasons provided in the said letter were that as the respondent Corporation was already in the process of downsizing the existing staff and started implementing voluntary retirement scheme, further as there was ban in further recruitment, besides the revision of staff pattern in pursuance to G.O.Ms.No.112, dated 08.07.1994, as there were no vacant post

to accommodate the writ petitioner, the request was not considered and therefore, his services were directed to be dispensed with effect from 05.08.2005. Assailing the same, the present writ petition is filed.

3. By interim order dated 18.08.2005, this Court has directed the parties to maintain *status-quo*. In that view of the matter, the petitioner continues to work with the respondents as on today.

5. Heard Sri K.R.S. Prakash Rao, learned counsel representing Ms. A.V.S. Laxmi, learned counsel for the petitioner, Sri P. Mallikarjuna Rao, learned Standing Counsel for the respondent Corporation and learned Assistant Government Pleader for Services-I.

6. (a) Learned counsel for the petitioner has taken this Court to the additional material documents, which are placed on record on 26.03.2025. In the proceedings dated 07.11.2019, issued by the Divisional Manager, Tirupati, addressed to Vice Chairman and Managing Director of the 1st respondent Corporation, it was specifically mentioned that the petitioner was discharging duties as Accountant for recording the entries in cash book, preparation of R & C, maintaining sales men liabilities, RMD sales, maintaining sundry debtor accounts etc. Further, the Manager (FAC, Nellore) issued performance report dated 07.06.2023

showing that the petitioner has been working with corporation since 27.06.1990, for almost 33 years, and that he was assigned with the duties of Office Accounts etc., which were essentially to be carried down by Junior Assistant to Senior Assistant and that his performance and accountability found to be satisfactory.

(b) Learned counsel for the petitioner also taken pains to refer to proceedings dated 29.01.2020, issued by the Vice Chairman and Managing Director addressed to the Secretary to the Government, Finance Department, intimating that they were about 727 vacancies in total across the State in the respondents Corporation, of which 41 Junior Assistant vacancies were required to be filled up immediately. Further reference has been made to employment notification dated 04.09.2024, by which the Corporation intended to fill up certain of the posts on deputation basis, the annexure to the said notification indicated that insofar as GPCMS at Nellore, there were three Junior Assistant posts vacant and to be filled up.

(c) By referring to the aforesaid documents and materials, learned counsel for the petitioner contends that as the petitioner continues to work and has been discharging duties to utmost satisfaction of the respondents, considering the nature of work discharged by him being perennial and that there existed

vacancies, the petitioner is therefore entitled to be considered for regularization. To buttress aforesaid contentions, reliance has been placed on the judgment of **Hon'ble Apex Court in Dharam Singh & Ors. vs. State of U.P. & ANR.**¹

7. (a) *Per contra*, learned counsel for the respondent Corporation contends that the Corporation is primarily funded by the State Government and as of now, the Corporation is not intending to fill up any post though there are certain vacancies available and it is for the corporation to take a call as to whether the contractual employees are to be continued or not. In pursuance to the directions of this Court on 29.01.2026 & 09.02.2026, learned counsel for the respondents has secured written instructions dated 04.02.2026 & 18.02.2026, which are on record.

(b) Based on the said instructions, it is contended that the post which the petitioner holds as of now, i.e., Data Entry Operator, is not a notified post and no vacancy, as such, exist. Therefore, question of regularizing services of the petitioner as Junior Assistant does not arise.

8. Perused the record and considered the respective submissions of both the learned counsel.

¹ 2025 SCC OnLine SC 1735

9. It is not in dispute that the petitioner has been working with the respondent Corporation since 27.06.1990. Proceedings dated 07.11.2019, issued by the Divisional Manger, Tirupati, and also the performance report dated 07.06.2023, issued by Manager FAC, Nellore, clearly establish that the petitioner has been discharging multiple functions in the capacity of Accountant. The reports also suggest that the work assigned to him is normally to be discharged by Junior Assistant as well as Senior Assistant. Further, memos dated 29.01.2020 and 24.09.2024, issued in the nature of employment notifications, suggest that clearly there existed vacancies to the post of Junior Assistant across the State, in particular, three vacancies existed at Nellore where the petitioner is presently working.

10. Therefore, This Court is of the opinion that firstly, the petitioner has been continuously working and discharging duties in the cadre of Junior Assistant with the respondent Corporation, though the nomenclature given to the post he is holding as Data Entry Operator. Secondly, he is well qualified to hold the post being bachelor degree holder with Typing and thirdly, there existed clear vacancy as per memo dated 29.01.2020. The reasons given by the 2nd respondent for rejecting the request of the petitioner for regularization, that downsizing of staff on

account of implementation of VRS, revision of staff pattern in pursuance to G.O.Ms.No.112, dated 08.07.1994, would have no consequences in view of the subsequent developments mentioned *supra*. Even the other objections raised regarding ban on recruitment would also have no implications, inasmuch as the very same respondent have already attempted to recruit or fill up the vacancies by issuing regular notification.

11. In this context, it is required to notice the judgment that has been relied on by the learned counsel for the petitioner. For better appreciation, Para Nos.13 & 17 to 19 of the judgment are extracted under:

“13. As we have observed in both **Jaggo (Supra)** (Jaggo v. Union of India reported in 2024 SCC OnLine SC 3826) and **Shripal (Supra)** (Shripal & Another vs. Nagar Nigam Ghaziabad reported in 2025 SCC OnLine SC 221), 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.

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 offends 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 offices running.

19. Having regard to the long, undisputed service of the appellants, the admitted perennial nature of their duties, and the material indicating vacancies and comparator regularisations, we issue the following directions:

i. Regularization and creation of Supernumerary posts:

All appellants shall stand regularized with effect from 24.04.2002, the date on which the High Court directed a fresh recommendation by the Commission and a fresh decision by the State on sanctioning posts for the appellants. For this purpose, the State and the successor establishment (U.P. Education Services Selection Commission) shall create supernumerary posts in the corresponding cadres, Class-III (Driver or equivalent) and Class-IV (Peon/Attendant/Guard or equivalent) without any caveats or preconditions. On regularization, each appellant shall be placed at not less than the minimum of the regular pay-scale for the post, with protection of last-drawn wages if higher and the appellants shall be entitled to the subsequent increments in the pay scale as per the pay grade. For seniority and promotion, service shall count from the date of regularization as given above.

ii. Financial consequences and arrears: Each appellant shall be paid as arrears the full difference between (a) the pay and admissible allowances at the minimum of the regular pay-level for the post from time to time, and (b) the amounts actually paid, for the period from 24.04.2002 until the date of regularization/retirement/death, as the case may be. Amounts already paid under previous interim directions shall be so adjusted. The net arrears shall be released within three months and if in default, the unpaid amount shall carry compound interest at 6% per annum from the date of default until payment.

iii. **Retired appellants:** Any appellant who has already retired shall be granted regularization with effect from 24.04.2002 until the date of superannuation for pay fixation, arrears under clause (ii), and recalculation of pension, gratuity and other terminal dues. The revised pension and terminal dues shall be paid within three months of this Judgment.

iv. **Deceased appellants:** In the case of Appellant No. 5 and any other appellant who has died during pendency, his/her legal representatives on record shall be paid the arrears under clause (ii) up to the date of death, together with all terminal/retiral dues recalculated consistently with clause (i), within three months of this Judgment.

v. **Compliance affidavit:** The Principal Secretary, Higher Education Department, Government of Uttar Pradesh, or the Secretary of the U.P. Education Services Selection Commission or the prevalent competent authority, shall file an affidavit of compliance before this Court within four months of this Judgment."

12. In aforesaid judgment, the Hon'ble Apex Court has candidly set out that if the work is inherently perennial in nature and the persons are employed on full time basis, even if there are certain financial stringency which would attract public policy, the same by itself can not deprive the persons to claim for regularization and any such action should be in all fairness and reason lawful. Continuation of employment on ad-hocism has been seriously deprecated and therefore, directions were issued to regularize the persons who have been continuously working in the peculiar facts and circumstances of the case. Even in the present case also, as noticed above, the nature of work being perennial and that the petitioner has been continuously working and has put in service more than 35 years, his services are

entitled to be regularized in the vacancies those that are available at the place where he is working.

13. Accordingly, the writ petition stands allowed, by setting aside the impugned order *vide* Rc.No.164/99 LE/A7, dated 30.07.2005, passed by the 2nd respondent and further, respondents are directed to regularize the services of the petitioner with effect from notifying of vacancies i.e., 29.01.2020 as communicated by Vice Chairman and Managing Director to the State Government and shall extend all other consequential benefits from the said date. It goes without saying that service rendered by the petitioner from the date of initial appointment shall be counted for the purpose of seniority and promotion. No costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUSTICE CHALLA GUNARANJAN

Date: 19.02.2026

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THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN

WRIT PETITION NO: 18190 of 2005

Date: 19.02.2026

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