



CGHC010035902022



2026:CGHC:37771

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 969 of 2022

- Smt. Durga Bai Soni W/o Late Shri Kishore Kumar Soni (Waterman), Aged About 53 Years Caste - Sonar, Office Of The Sub Divisional Electrical Engineer, Rajnandgaon, R/o Kilapara (Sonarpara), Ward No. 37, Tahsil And District - Rajnandgaon Chhattisgarh - 491441

... **Petitioner****versus**

1. State Of Chhattisgarh Through - The Secretary, Department Of Water Resources, Atal Nagar, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur Chhattisgarh
2. The Chief Engineer Water Resources, Mahanadi Godawari Project, Raipur, District - Raipur Chhattisgarh
3. The Superintending Engineer Shivrath Division Durg, District - Durg Chhattisgarh.
4. The Executive Engineer (Electrical) Light Machinery, Water Tube Well Division, Durg, District Durg Chhattisgarh.
5. The Sub Divisional Officer Electrical Engineering Light Machinery Water Tube Well Division, Rajnandgaon, District Rajnandgaon Chhattisgarh.

... **Respondent(s)**

For Petitioner	: Mr. T.R. Patel, Advocate holding the brief of Mr. Vikas Pandey, Advocate
For State	: Mr. Anil S. Pandey, Government Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

24.08.2026

1. By way of this petition, the petitioner has sought the following relief(s):-

“ 10.1 To call for the records of the case for kind perusal of this Hon'ble court.

10.2 To issue an appropriate writ or order and declare that the order dated 28.01.2021 (Annexure P-1 is bad in law and liable to be set aside.

10.3 To issue an appropriate writ or order and direct the respondents to regularize the petitioner on the post of waterman.

10.4 To issue an appropriate writ or order and direct the respondents to consider the case of the petitioner in the light of judgment pronounced by the Hon'ble Supreme Court in the matter of Uma Devi (supra) and the policy dated 05.03.08.

10.5 Any other relief deemed fit in the facts and circumstances of the case may also be granted.”

2. Mr. Patel, counsel for the petitioner would submit that the petitioner was engaged with the department on the post of waterman on daily wage on 02.11.1998. He would contend that though the petitioner completed more than 20 years of service, but her claim with regard to regularization has not been considered. He would contend that the application of the petitioner has been rejected vide order dated 28.01.2021 on the ground that the petitioner was appointed after cut-off date i.e. 31.12.1997. He would submit that as the petitioner has been working with the department for more than 20 years, the respondents should have considered the claim of the petitioner for regularization.
3. On the other hand, learned counsel appearing for respondents would oppose. Mr. Pandey would submit that the petitioner does not come within the parameters of circular dated 05.03.2008 as she was appointed after 31.12.1997, therefore, her claim has rightly been rejected by the authority.
4. I have heard learned counsel for the parties and perused the documents placed on record.

5. In the present case, the petitioner has been continuously working with the department for more than 20 years and her claim for regularization has been rejected solely on the ground that she was appointed after cut-off date i.e. 31.12.1997. In my considered view, it is not necessary for an establishment or a State instrumentality to always apply circular dated 05.03.2008 while dealing with the cases of regularization. The authority concerned has to consider nature of employment, length of service, past record of employee, sanctioned vacancy etc. It is well settled principle of law that prolonged temporary engagement of daily wagers amounts exploitation and defeats constitutional mandate.
6. The aspect of regularization has been considered by the Hon'ble Supreme Court **Jaggo Versus Union of India**¹ in which it has been held in paragraphs 26 and 27 as under :

“26. While the judgment in Umadevi (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted legitimate claims of long-serving employees. This or misapplied to judgment aimed to distinguish between "illegal" and deny "irregular" appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one- time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases appointments are not illegal, but merely lack where their adherence to procedural formalities. Government departments often cite the judgment in Umadevi (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is

1. 2024 LiveLaw (SC) 1032

appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.

27. In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country.”

7. Recently, in **Shripal Versus Nagar Nigam, Ghaziabad**², the Hon’ble Supreme Court has cautioned that **Uma Devi** judgment cannot be used 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. Relevant paragraph 14 reads as under :-

“14.The Respondent Employer places reliance on Umadevi (supra) to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, Uma Devi itself distinguishes between appointments that are "illegal" and those that are "irregular," the latter being eligible for regularization if they meet certain conditions. More importantly, Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment. Given the record which shows no true contractor-based arrangement and a consistent need for permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices.”

8. In view of the aforesaid discussion and the legal principles established by the Apex Court, the order passed by respondent No. 2 dated 28.01.2021 is hereby **quashed** and matter is remitted back to the authority concerned to reconsider the claim of petitioner keeping in mind the observations made herein-above. It is expected that entire exercise shall be completed by respondent No. 2 within period of 120 days from the date of receipt of copy of this order.
9. In result, this writ petition stands **allowed**.

Sd/-
(**Rakesh Mohan Pandey**)
JUDGE

Siddhant