



2026:CGHC:7267



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3221 of 2025

1 - Temal Singh Markam S/o Shri Gadarai Markam Aged About 61 Years
Occupation Service, Presently Posted As Roller Helper, Rural Engineering Services,
Division Janjgir, District- Janjgir-Champa (C.G.)

... **Petitioner**

Versus

1 - State Of Chhattisgarh Through Secretary, Department Of Panchayat And Rural
Development, Mahanadi Bhawan, Mantralaya, New Raipur, Atal Nagar District-
Raipur (C.G.)

2 - Chief Engineer Panchayat And Rural Development, Vikas Bhawan, Civil Lines,
District- Raipur (C.G.)

3 - Superintendent Engineer Rural Engineering Services, Janjgir, District- Janjgir-
Champa (C.G.)

4 - Executive Engineer Rural Engineering Services, Division Janjgir, District- Janjgir-
Champa (C.G.)

5 - Sub Divisional Officer Rural Engineering Services, Sub Division Janjgir, District-
Janjgir-Champa (C.G.)

... **Respondents**

For Petitioner	:	Mr. Sourabh Sahu, Advocate
For Respondents/State	:	Mr. Rishab Bisen, Panel Lawyer

SB: Hon'ble Shri Parth Prateem Sahu, Judge

ORDER ON BOARD

23/01/2026



1. Facts of the case in brief are that the petitioner was initially appointed on 01.07.1988 as daily-wage employee by the Sub-Divisional Officer (Revenue), Akaltara, District – Janjgir – Champa on the post of Roller Helper. Since, the date of his initial appointment, petitioner is continuously working on the post of Roller Helper and has performed all his duties assigned to him with sincerity and to the satisfaction of authorities. He contended that even after completion of about 37 years of service, petitioner is not being regularized and is still working as daily-wage employee and therefore, this writ petition is filed seeking following reliefs:-

“10.1 That, this Hon'ble Court may kindly be pleased to direct the respondents to regularize the petitioner and grant him regular pay scale considering his length of service.

10.2 That, this Hon'ble Court may kindly be pleased to direct the respondents to pay the arrears of the difference of pay scale to the petitioner.

10.3 Any other relief, which Hon'ble Court may deem fit be granted to the petitioners in the interest of justice.”

2. Learned counsel for the petitioner submits that the petitioner since the date of his initial appointment i.e. 01.07.1988 is continuously working as daily-wage employee. Some of the similarly situated employees who were also appointed prior to 31.12.1997 were regularized by the respondents on 08.09.2009, however, the petitioner was not given that benefit and thereby, the act of the respondent is discriminatory. It is further contention of the counsel for the petitioner that the General Administration Department, State of Chhattisgarh have issued circular dated 05.03.2008 in the light of the decision of Hon'ble Supreme Court in case of ***Secretary, State of Karnataka and Others v. Umadevi and Others*** reported in ***(2006) 4 SCC 1*** for regularization of the daily-wage employee/temporary employees working in different departments of the State of Chhattisgarh. Thousands of employees working in different



departments like petitioner were regularized in service, however, at that time also, petitioner's name was not considered for his regularization in service.

3. It is further contention of learned counsel for petitioner that the Executive Engineer, Rural Engineering Services, Janjgir Division, District – Janjgir – Champa had prepared details of the petitioner and forwarded it to the Superintendent Engineer (RES), Division Bilaspur on 03.10.2020 mentioning the date of engagement of the petitioner since 01.07.1988 as daily-wage employee and it further mentions that the petitioner is continuously working because, he is committed to the work. The said exercise was initiated by the Executive Engineer for the purpose of regularization of service of the petitioner. It is also contention of counsel for the petitioner that the petitioner has already passed Class V examination in the year 2009 which is appearing from the letter written by the petitioner dated 04.02.2025 (Annexure P/7). Executive Engineer again wrote a letter to Engineer-in-Chief on 04.01.2025 requesting for regularization of the services of the petitioner mentioning the period of engagement of the petitioner since 01.01.1988 and therefore, the respondents be directed to consider the candidature of the petitioner and regularize him in service.
4. On the other hand, learned counsel for the Respondents/State submitted that according to reply:-

“ 3 (i) The exercising power in Courts, High 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 a direction for issue not Courts should 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 to contrary entries, appointments constitutional scheme and/or appointment of ineligible candidates cannot be regularised.

3 (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.

3 (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.

3 (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.

3 (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."

5. In support of his contention, he places reliance upon the decision of Hon'ble Supreme Court in case of **Umadevi (Supra)** and submits that Hon'ble Supreme Court has observed that regularization of the daily-wage/temporary employees in service one time measure, of an employee



who has worked for 10 years or more in duly sanctioned posts, but not under cover of the order of the Court or Tribunal.

6. Learned counsel for the Respondents/State while supporting the decision dated 10.06.2022 (Annexure P/3) would submit that the claim of petitioner for regularization was rejected on the ground that the petitioner at the time of his engagement and also on the date of consideration of the claim of petitioner for regularization along with other employees after issuance of circular by the State Government dated 05.03.2008, petitioner did not posses requisite qualification of Class – V pass. He also contended that in rejection order (Annexure P/3), it is mentioned that in Recruitment Rules of 1992, minimum qualification for Peon was Class – V pass and petitioner has obtained certificate of Class – V pass only on 04.09.2009 which is after 31.12.1997.
7. I have heard learned counsel for the parties and perused the documents placed on record.
8. Claim of the petitioner is that, he was engaged by the Respondent/Department as daily-wage employee for doing the work of Roller Helper. It is also not in dispute that the petitioner was employed on 01.07.1988 and since then, he is continuously working till date. The government officer under whom petitioner is working, i.e. Executive Engineer had also written a letter to the Superintendent Engineer of the Department recommending regularization of service of the petitioner along with the proposal prepared by the Executive Engineer mentioning all the relevant particulars of the petitioner in it.
9. Proposal prepared by the Executive Engineer for regularization of services of petitioner clearly mentions the date of birth, post on which person named therein is working with date of initial engagement i.e. 01.07.1988 as Roller Helper, daily-wage employee and in the bottom of



the proposal, it is mentioned that petitioner is continuously working from the date of appointment. Vide letter dated 04.01.2025, Executive Engineer has further made request/proposal to the Engineer-in-Chief to regularize the services of the petitioner mentioning the date of his engagement as 01.01.1988 as also, the fact that the petitioner is working continuously since then and his service could not be regularized till date.

10. From the aforementioned facts and the letters/documents written by the respondent authorities in particular, the Executive Engineer to his superior officer, one thing is very clear that since the date of engagement of the petitioner, he is continuously working since last about 37 years. Hon'ble Supreme Court in the case of **Umadevi (Supra)** considering the subject matter of the case therein, the condition of the daily-wage/temporary employees and working since long has observed thus:-

“ 53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. NARAYANAPPA (supra), R.N. NANJUNDAPPA (supra), and B.N. NAGARAJAN (supra), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-



passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.”

11. After the decision in the case of **Umadevi (Supra)**, State Government has issued circular addressing to all the stakeholders of different departments of the State of Chhattisgarh on 05.03.2008 with the subject that regularization of Class III and Class IV employees working as daily-wage employee or temporary employee under Clause 3 of the aforementioned notification, it is mentioned that the procedure for regularization of services of Class III and Class IV employees working as daily-wage or temporary employees. The paragraph 2 of the said circular is extracted below for ready reference:-

“ 2. उपरोक्त माननीय उच्चतम न्यायालय के निर्णय के परिप्रेक्ष्य में राज्य शासन द्वारा सहानुभूतिपूर्वक विचार कर दैनिक वेतन भोगी/तदर्थ रूप से नियुक्त कर्मचारियों की नियमितिकरण की प्रक्रिया निम्नानुसार निर्धारित की जाती है :-

(i) व्यक्ति, रिक्त/स्वीकृत नियमित पद के विरुद्ध पदस्थ किया गया हो और विभागीय भरती नियमों में निर्धारित शैक्षणिक एवं अन्य योग्यताएं रखता हो तो ही नियमित करने योग्य है।

(ii) दैनिक वेतन पर, तदर्थ रूप से अथवा कलेक्टर दर पर (दैनिक वेतन पर) जब नियुक्ति हुई तब से अब तक उस पद की आवश्यकता रही है और आगे भी उस पद की आवश्यकता हो तो संबंधित पद के विरुद्ध ऐसे व्यक्ति को पदस्थ मानते हुए विचार किया जा सकेगा। A

(iii) संबंधित व्यक्ति ने दैनिक वेतन भोगी (चाहे कलेक्टर दर पर) के रूप में अथवा तदर्थ रूप में दिनांक 31-12-1997 तक लगातार उसी पद पर या समकक्ष पद पर कार्य किया हो के संबंध में लगातार कार्य करना (सेवा देना) तब ही माना जायेगा यदि प्रत्येक वर्ष में कुल सेवा ब्रेक एक माह से अधिक की न हो। लगातार सेवा के लिये हड़ताल की अवधि सेवा में ब्रेक नहीं मानी जायेगी।

(iv) दिनांक 31-12-1997 तक दैनिक वेतन पर अथवा तदर्थ नियुक्त एवं कार्यरत तृतीय एवं चतुर्थ श्रेणी कर्मचारियों का नियमितिकरण किया जाय।

(v) व्यक्ति यदि कार्यभारित पदों के विरुद्ध कार्यरत है तो कार्यभारित पद पर ही नियमित किया जाए नियमित पद के विरुद्ध कार्यरत हो तो नियमित पद पर ही नियमित किया जाए।



(vi) छत्तीसगढ़ लोक सेवा (अनुसूचित जातियों, अनुसूचित जनजातियों, और अन्य पिछड़े वर्गों के लिये आरक्षण) अधिनियम, 1994 का पालन किया जावे अर्थात् दैनिक वेतन भोगी/तदर्थ रूप में कार्यरत व्यक्ति जिस वर्ग से संबंधित है रोस्टर के अनुसार उसी बिन्दु के समक्ष उसका नियमितिकरण किया जाये एवं रोस्टर में अनुसूचित जाति, अनुसूचित जनजाति, अन्य पिछड़े वर्ग के बिन्दु यदि उम्मीदवार के अभाव में रिक्त रहते हैं तो भविष्य में होने वाली रिक्तियों की पूर्ति आरक्षित बिन्दुओं के लिये प्राथमिकता के आधार पर बैकलाग की पूर्ति की तरह की जायेगी।

(vii) नियमितिकरण स्वीकृत एवं रिक्त पद पर ही किया जाएगा । इस हेतु जिन विभागों में आवश्यक हो वहां सांख्येतर पद निर्मित किये जायें। यदि पद ही कलेक्टर दर पर स्वीकृत हो तो स्वीकृत पदों (दैनिक वेतन पर) को नियमित वेतनमान में परिवर्तित (सृजित) करना होगा।

(viii) परिपत्र जारी होने के बाद शासकीय विभागों द्वारा नियमितिकरण के आदेश जिस दिन जारी किये जायेंगे उसी दिनांक से ही नियमित कर्मचारी माने जावेंगे। पूर्व के किसी दिनांक से नहीं। पदक्रम सूची में इनके नाम आपसी वरिष्ठता अनुसार एनब्लाक सबसे नीचे रखे जायेंगे।

(ix) उपरोक्तानुसार नियमित रूप से नियुक्ति दी गई व्यक्तियों की आपसी वरिष्ठता दैनिक वेतन भोग कर्मचारी/कलेक्टर दर पर, अथवा तदर्थ रूप से कार्यभार ग्रहण के दिनांक के आधार पर निर्धारित की जावेगी । वरिष्ठताक्रम निर्धारित करते समय यदि एक से अधिक व्यक्ति एक दिनांक में नियुक्त किये गये हों तो उनमें से जो आयु में अधिक होगा उसे वरिष्ठ माना जाएगा."

12.Hon'ble Supreme Court in the case of **Narendra Kumar Tiwari & Ors.**

Vs. State of Jharkhand & Ors. reported in **(2018) 8 SCC 238** taking note

of para 3 of the decision in case **Umadevi (Supra)** has observed thus:-

" 8. If a strict and literal interpretation, forgetting the spirit of the decision of the Constitution Bench in Umadevi (3)2, is to be taken into consideration then no irregularly appointed employee of the State of Jharkhand could ever be regularised since that State came into existence only on 15-11-2000 and the cut- off date was fixed as 10-4-2006. In other words, in this manner the pernicious practice of indefinitely continuing irregularly appointed employees would be perpetuated contrary to the intent of the Constitution Bench.

9. The High Court as well as the State of Jharkhand ought to have considered the entire issue in a contextual perspective and not only from the b point of view of the interest of the State, financial or otherwise of the employees is



also required to be kept in mind. What has eventually been the interest achieved by the State of Jharkhand is to short circuit the process of regular appointments and instead make appointments on an irregular basis. This is hardly good governance.

10. Under the circumstances, we are of the view that the Regularisation Rules must be given a pragmatic interpretation and the appellants, if they have completed 10 years of service on the date of promulgation of the Regularisation Rules, ought to be given the benefit of the service rendered by them. If they have completed 10 years of service they should be regularised unless there is some valid objection to their regularisation like misconduct, etc.”

13. Hon'ble Supreme Court recently in the case of **Jaggo Vs. Union of India & Ors.** reported in **(2024) SCC OnLine SC 3826** while considering the claim of part-time/ad hoc employees appointed as Safaiwale, Khalasi who earlier engaged in CWC Establishment at Faridabad had observed thus:-

“22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.

23. The International Labour Organization (ILO), of which India is a founding member, has consistently advocated for employment stability and the fair treatment of workers. The ILO's Multinational Enterprises Declaration⁶ encourages companies to provide stable employment and to observe obligations concerning employment stability and social security. It emphasizes that enterprises should assume a leading role in promoting employment security, particularly in contexts where job discontinuation could exacerbate long-term unemployment.

24. The landmark judgment of the United State in the case of Vizcaino v. Microsoft Corporation⁷ serves as



a pertinent example from the private sector, illustrating the consequences of misclassifying employees to circumvent providing benefits. In this case, Microsoft classified certain workers as independent contractors, thereby denying them employee benefits. The U.S. Court of Appeals for the Ninth Circuit determined that these workers were, in fact, common-law employees and were entitled to the same benefits as regular employees. The Court noted that large Corporations have increasingly adopted the practice of hiring temporary employees or independent contractors as a means of avoiding payment of employee benefits, thereby increasing their profits. This judgment underscores the principle that the nature of the work performed, rather than the label assigned to the worker, should determine employment status and the corresponding rights and benefits. It highlights the judiciary's role in rectifying such misclassifications and ensuring that workers receive fair treatment.

25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

- **Misuse of “Temporary” Labels:** Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labeled as “temporary” or “contractual,” even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.*

- **Arbitrary Termination:** Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.*

- **Lack of Career Progression:** Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.*

- **Using Outsourcing as a Shield:** Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.*



• **Denial of Basic Rights and Benefits:** Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.

26. While the judgment in *Uma Devi (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 or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between “illegal” and “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 where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in *Uma Devi (supra)* to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is 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.

28. In view of the above discussion and findings, the appeals are allowed. The impugned orders passed by the High Court and the Tribunal are set aside and the original application is allowed to the following extent:

i. The termination orders dated 27.10.2018 are quashed;



ii. The appellants shall be taken back on duty forthwith and their services regularised forthwith. However, the appellants shall not be entitled to any pecuniary benefits/back wages for the period they have not worked for but would be entitled to continuity of services for the said period and the same would be counted for their post-retiral benefits."

14. In case of **Vinod Kumar v. Union of India**, reported in (2024) 9 SCC 327, Hon'ble Apex Court had held that mere procedural formalities cannot stand in the way of regularizing service of an employee whose appointment was termed "temporary" but who has rendered services akin to that of a regular employee, over a substantial period of time, in the capacity of a regular employee. It has been observed in the relevant paragraphs (i.e. para 6 & 7) that:-

*"6. The application of the judgment in **Uma Devi** (supra) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over a considerable period through continuous service. Their promotion was based on a specific notification for vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in the case of **Uma Devi** (supra).*

*7. The judgment in the case **Uma Devi** (supra) also distinguished between "irregular" and "illegal" **appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case...."***



15. Recently, in **SLP (C) No.30762/2024, parties being Bhola Nath vs State of Jharkhand & ors, decided on 31.1.2026**, Hon'ble Supreme Court after referring its earlier decisions on the very issue, has concluded thus:-

"13.6. This Court has, on several occasions, deprecated the practice adopted by States of engaging employees under the nominal labels of "part-time", "contractual" or "temporary" in perpetuity and thereby exploiting them by not regularizing their positions. In Jaggo v. Union of India¹⁰, this Court underscored that government departments must lead by example in ensuring fair and stable employment, and evolved the test of examining whether the duties performed by such temporary employees are integral to the day-to-day functioning of the organization.

13.7. In Shripal v. Nagar Nigam¹¹, and Vinod Kumar v. Union of India¹², this Court cautioned against a mechanical and blind reliance on Umadevi (supra) to deny regularization to temporary employees in the absence of statutory rules. It was held that Umadevi (supra) cannot be employed as a shield to legitimise exploitative engagements continued for years without undertaking regular recruitment. The Court further clarified that Umadevi itself draws a distinction between appointments that are "illegal" and those that are merely "irregular", the latter being amenable to regularization upon fulfillment of the prescribed conditions.

13.8. In Dharam Singh v. State of U.P.¹³, this Court strongly deprecated the culture of "ad-hocism" adopted by States in their capacity as employers. The Court criticised the practice of outsourcing or informalizing recruitment as a means to evade regular employment obligations, observing that such measures perpetuate precarious working conditions while circumventing fair and lawful engagement practices.

13.9. The State must remain conscious that part-time employees, such as the appellants,



constitute an integral part of the edifice upon which the machinery of the State continues to function. They are not merely ancillary to the system, but form essential components thereof. The equality mandate of our Constitution, therefore, requires that their service be reciprocated in a manner free from arbitrariness, ensuring that decisions of the State affecting the careers and livelihood of such part-time and contractual employees are guided by fairness and reason.

13.10. In the aforesaid backdrop, we are unable to persuade ourselves to accept the respondent-State's contention that the mere contractual nomenclature of the appellants' engagement denudes them of constitutional protection. The State, having availed of the appellants' services on sanctioned posts for over a decade pursuant to a due process of selection and having consistently acknowledged their satisfactory performance, cannot, in the absence of cogent reasons or a speaking decision, abruptly discontinue such engagement by taking refuge behind formal contractual clauses. Such action is manifestly arbitrary, inconsistent with the obligation of the State to act as a model employer, and fails to withstand scrutiny under Article 14 of the Constitution.

FINAL CONCLUSION:

14. In light of our discussion, in the foregoing paragraphs, we summarize our conclusions as follows:

I. The respondent-State was not justified in continuing the appellants on sanctioned vacant posts for over a decade under the nomenclature of contractual engagement and thereafter denying them consideration for regularization.

II. Abrupt discontinuance of such long-standing engagement solely on the basis of contractual nomenclature, without either recording cogent reasons or passing a speaking order, is manifestly arbitrary and violative of Article 14 of the Constitution.



III. Contractual stipulations purporting to bar claims for regularization cannot override constitutional guarantees. Acceptance of contractual terms does not amount to waiver of fundamental rights, and contractual stipulations cannot immunize arbitrary State action from constitutional scrutiny.

IV. The State, as a model employer, cannot rely on contractual labels or mechanical application of Umadevi (supra) to justify prolonged ad-hocism or to discard long-serving employees in a manner inconsistent with fairness, dignity and constitutional governance.

V. In view of the foregoing discussion, we direct the respondent-State to forthwith regularize the services of all the appellants against the sanctioned posts to which they were initially appointed. The appellants shall be entitled to all consequential service benefits accruing from the date of this judgment.

16. Following the decision in the case of **Jaggo (Supra)**, Hon'ble Supreme Court in the case of **Shripal & Anr. Vs. Nagar Nigam, Ghaziabad** reported in **(2025) SCC OnLine SC 221** while considering the claim of regularization of the appellants therein had observed thus:-

"12. The evidence, including documentary material and undisputed facts, reveals that the Appellant Workmen performed duties integral to the Respondent Employer's municipal functions specifically the upkeep of parks, horticultural tasks, and city beautification efforts. Such work is evidently perennial rather than sporadic or project-based. Reliance on a general "ban on fresh recruitment" cannot be used to deny labor protections to long-serving workmen. On the contrary, the acknowledged shortage of Gardeners in the Ghaziabad Nagar Nigam reinforces the notion that these positions are essential and ongoing, not intermittent.

13. By requiring the same tasks (planting, pruning, general upkeep) from the Appellant Workmen as from regular Gardeners but still compensating them inadequately and inconsistently the Respondent Employer has effectively engaged in an unfair labour practice. The principle of "equal pay for equal work," repeatedly emphasized by this Court, cannot be casually disregarded when workers have served for extended periods in roles resembling those



of permanent employees. Long-standing assignments under the Employer's direct supervision belie any notion that these were mere short-term casual engagements.

*15. It is manifest that the Appellant Workmen continuously rendered their services over several years, sometimes spanning more than a decade. Even if certain muster rolls were not produced in full, the Employer's failure to furnish such records—despite directions to do so—allows an adverse inference under well-established labour jurisprudence. Indian labour law strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature. Morally and legally, workers who fulfil ongoing municipal requirements year after year cannot be dismissed summarily as dispensable, particularly in the absence of a genuine contractor agreement. At this juncture, it would be appropriate to recall the broader critique of indefinite “temporary” employment practices as done by a recent judgment of this court in *Jaggo v. Union of India*³ in the following paragraphs:*

“22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.

.....

25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

- Misuse of “Temporary” Labels : Employees engaged for work that is essential, recurring, and



integral to the functioning of an institution are often labelled as “temporary” or “contractual,” even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.

- **Arbitrary Termination** : Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.

- **Lack of Career Progression** : Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.

- **Using Outsourcing as a Shield** : Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.

- **Denial of Basic Rights and Benefits** : Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.”

16. The High Court did acknowledge the Employer's inability to justify these abrupt terminations. Consequently, it ordered re-engagement on daily wages with some measure of parity in minimum pay. Regrettably, this only perpetuated precariousness : the Appellant Workmen were left in a marginally improved yet still uncertain status. While the High Court recognized the importance of their work and hinted at eventual regularization, it failed to afford them continuity of service or meaningful back wages commensurate with the degree of statutory violation evident on record.

17. In light of these considerations, the Employer's discontinuation of the Appellant



Workmen stands in violation of the most basic labour law principles. Once it is established that their services were terminated without adhering to Sections 6E and 6N of the U.P. Industrial Disputes Act, 1947, and that they were engaged in essential, perennial duties, these workers cannot be relegated to perpetual uncertainty. While concerns of municipal budget and compliance with recruitment rules merit consideration, such concerns do not absolve the Employer of statutory obligations or negate equitable entitlements. Indeed, bureaucratic limitations cannot trump the legitimate rights of workmen who have served continuously in de facto regular roles for an extended period.

18. The impugned order of the High Court, to the extent they confine the Appellant Workmen to future daily-wage engagement without continuity or meaningful back wages, is hereby set aside with the following directions:

I. The discontinuation of the Appellant Workmen's services, effected without compliance with Section 6E and Section 6N of the U.P. Industrial Disputes Act, 1947, is declared illegal. All orders or communications terminating their services are quashed. In consequence, the Appellant Workmen shall be treated as continuing in service from the date of their termination, for all purposes, including seniority and continuity in service.

II. The Respondent Employer shall reinstate the Appellant Workmen in their respective posts (or posts akin to the duties they previously performed) within four weeks from the date of this judgment. Their entire period of absence (from the date of termination until actual reinstatement) shall be counted for continuity of service and all consequential benefits, such as seniority and eligibility for promotions, if any.

III. Considering the length of service, the Appellant Workmen shall be entitled to 50% of the back wages from the date of their discontinuation until their actual reinstatement. The Respondent Employer shall clear the aforesaid dues within three months from the date of their reinstatement.

IV. The Respondent Employer is directed to initiate a fair and transparent process for regularizing the Appellant Workmen within six months from the date of reinstatement, duly considering the fact that they have performed perennial municipal duties akin to permanent posts. In assessing regularization, the Employer



shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Appellant Workmen or to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the Respondent Employer shall expedite all necessary administrative processes to ensure these longtime employees are not indefinitely retained on daily wages contrary to statutory and equitable norms.”

17.If the facts of the case are considered in light of the afore-referred decisions of the Hon'ble Supreme Court and the circular issued by the State Government in this regard, one of the condition is that for seeking relief of regularization in service, the employee must have been engaged by the employer and is continuously working/worked for more than 10 years. In the case at hand, engagement of the petitioner since 01.07.1988 is not disputed which even otherwise is prior to 31.12.1997 as is mentioned in the circular issued by the State Government on 05.03.2008 (Annexure P/2), the engagement of the petitioner cannot be said to be illegal. More so, when the Executive Engineer of the department writing letter to the superior authorities like the Superintendent Engineer and also, the Engineer-in-Chief for regularizing the services of the petitioner enclosing his details mentioning the date of his engagement and therefore, the engagement of the petitioner in service cannot be said to be illegal in any manner. It can be said to be only irregular in the facts of the case, more so, when the engagement of the petitioner is of Roller Helper which is Class – IV post.

18.The Respondent No. 2 has rejected the claim of the petitioner vide order dated 10.06.2022 (Annexure R/3) for his regularization in service only on the ground that on the date of his engagement or on the date of issuance of the circular dated 05.03.2008, the educational qualification of the petitioner was Class – II and therefore, he was found not fit for regularizing his services on the post of Peon on 01.09.2008. The fact



remains that undisputedly even thereafter, the petitioner was continuously engaged in service/engaging him as Roller Helper. It is also forming part of the decision dated 10.06.2022 (Annexure R/3) that petitioner thereafter have passed Class – V on 04.09.2009. Even if, the petitioner was not having the requisite qualification required on the date of consideration for regularization as on 01.09.2008, but he was kept in employment, even thereafter and within a period of 01 year, petitioner has passed Class – V and became eligible for his regularization in service then, the Respondent No. 2 committed error in rejecting the claim of petitioner for regularization in service vide letter dated 10.06.2022.

19. In the aforementioned facts of the case, it appears that it is a case of sheer exploitation, when the petitioner who has continuously worked for about 20 years, on the date of his obtaining the requisite qualification of Class - V pass and further continued in service thereafter and on the date of his consideration for regularization in service in the year 2022, petitioner had completed about more than 34 years of service. The respondent authorities have not considered the decisions of the Hon'ble Supreme Court with pragmatic approach as also, the object of the circular formulated by the State Government and its laudable intent.

20. In the case of **Jaggo (Supra)**, Hon'ble Supreme Court has further observed that "this selective application distorts the judgement's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades". Hon'ble Supreme Court has also observed in the very judgement the role of the government in such cases to lead for example in providing fair and suitable 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 illegal challenges and undermines employee moral.



21. Case of the petitioner is very much covered with the decision and the observation made by the Hon'ble Supreme Court in the aforementioned decisions as the employment of the petitioner is prior to 1997. Petitioner as of now has completed about 37 years of continuous service in the respondent department and even if, petitioner did not possess the requisite qualification for his regularization on the post of Peon on 01.08.2008, then, according to the observation made by the respondent authority in the recommendation for regularization that petitioner have passed Class – V exam on 04.09.2009 and therefore, it was for the respondent to regularize the petitioner from the said date to which, the respondents have not done and have subsequently vide order dated 10.06.2022 (Annexure R/3) rejected his application on technical ground. The said action on the part of the respondent, welfare State is highly arbitrary.
22. In the above facts of the case, taking into consideration the aforementioned facts of the case, discussion, the decisions of the Hon'ble Supreme Court and circular dated 05.03.2008 in the opinion of this Court, petitioner fulfills the requisite criteria for his regularization in service, is entitled for regularization in service and therefore, the decision taken by the respondent authority forming part in order dated 10.06.2022 (Annexure R/3) is liable to be and is hereby **quashed** and the respondent authorities are directed to regularize the services of the petitioner forthwith.
23. With the aforesaid observation and direction, this writ petition stands **allowed**.

Sd/-
(Parth Prateem Sahu)
Judge