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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 19th May, 2026

+ CONT.CAS(C) 933/2021

ZULFIQUAR HAIDAR

.....Petitioner

Through: Dr. Amit George, Mr. Sarvan Kumar,
Mr. Shivam Kumar, Mr. Dashmesh
Tripathi, Mr. Mukesh Kumar Pandey,
Ms. Priya Dwivedi, Advocates with
Petitioner in person.

versus

NAJMA AKHTAR & ORS.

.....Respondents

Through: Mr. Pritish Sabharwal, SC for DES
with Ms. Shweta Singh, and Ms.
Mehvish Khan, Advocates.

+ W.P.(C) 8318/2020, CM APPL. 26973/2020, CM APPL. 857/2021,
CM APPL. 10494/2022, CM APPL. 13711/2023, CM APPL.
21030/2023, CM APPL. 23404/2023, CM APPL. 48803/2023, CM
APPL. 65431/2023, CM APPL. 76453/2024 & CM APPL.
71742/2025

ZULFIQUAR HAIDAR

.....Petitioner

Through: Dr. Amit George, Mr. Sarvan Kumar,
Mr. Shivam Kumar, Mr. Dashmesh
Tripathi, Mr. Mukesh Kumar Pandey,
Ms. Priya Dwivedi, Advocates with
Petitioner in person.

versus

MANAGING COMMITTEE OF ANGLO ARABIC SENIOR
SECONDARY SCHOOL & ORS.

.....Respondents

Through: Mr. Pritish Sabharwal, SC for DES



with Ms. Shweta Singh, and Ms.
Mehvish Khan, Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. These proceedings in the above captioned petitions arise out of the same employment relationship and have, over time, travelled together. The writ petition has been filed by the Petitioner, Sh. Zulfiqar Haidar, seeking regularisation on the post of Librarian in Anglo Arabic Senior Secondary School. The contempt alleges breach of order dated 22nd October, 2020 passed in the writ petition, by which the statement of counsel for Respondent Nos.1 and 2 was recorded that the Respondents were not, at that stage, contemplating either dispensing with the Petitioner's services or directing him to vacate the accommodation provided to him. Since the facts, pleadings and subsequent orders are substantially interwoven, both matters are being disposed of by this common judgment.

2. Respondent No. 1 is Anglo Arabic Senior Secondary School. Respondent No. 2 is the Delhi Education Society, which manages the school. Respondent No. 3 is the Directorate of Education, Government of NCT of Delhi. The school is a recognised government-aided minority institution. There is no dispute that it receives 95% grant-in-aid from the Directorate of Education. The effect of that status, and in particular the role of the Directorate in regular appointments, is one of the central questions in the writ petition.



Factual background and Court's directions:

3. The earliest document on record is the advertisement issued in July, 2009 in Roznama Rashtriya Sahara. The advertisement, issued in the name of PTA Anglo Arabic Senior Secondary School, invited applications for several teaching and non-teaching posts, including one post of Librarian, on consolidated remuneration of INR 4,000 per month. The Petitioner applied. He was called for interview and was selected. The school does not dispute that he entered after an advertisement and interview. The dispute is over the legal character of that engagement.

4. The Petitioner relies on his educational qualifications and on the recruitment rules applicable to the post of Librarian and asserts that he fulfils the same. The recruitment rules require, in substance, a degree from a recognised university, a bachelor's degree or equivalent diploma in Library Science, and either two years' experience in a library/computerisation of a library or a one-year certificate in computer application from a recognised institute.

5. In 2011, the school issued an advertisement in The Times of India inviting applications for regular appointment to various posts, including the post of Librarian. The material placed on record includes an acknowledgement showing receipt of an application submitted by the Petitioner for the post of Librarian pursuant to the said advertisement.

6. From March, 2014, the Petitioner was also assigned additional duties as Assistant Warden of M.M. Begg Hostel. The Petitioner was also permitted to reside in the premises in connection with the said assignment.

7. The record also contains the Petitioner's salary details from January, 2014 onwards. They show month-to-month payments over the years,



including payments in months which the Respondents now describe as breaks between academic sessions. The Petitioner relies on these salary details in support of his case regarding continuity of engagement. He also points to the increase of his salary from INR 12,000/- to INR 14,000/- in December, 2019, which corresponds with the resolution of the Managing Committee dated 16th November, 2019 increasing his library timings and granting additional honorarium of INR 2,000/- per month.

8. The meeting of the Managing Committee held on 30th January, 2018 indicate that the Petitioner's request for regularisation was placed before the Committee. The minutes record that the post of Librarian had remained vacant since 1998 and that the Petitioner had been serving as Librarian on temporary basis since 26th June, 2009. The minutes further note that he was being paid INR 12,000/- per month from the Managing Committee account and had also been assigned additional charge as Assistant Warden, for which no separate remuneration was being paid except residential accommodation. The Committee ultimately resolved to forward his request for regularisation to the competent authority in the Directorate of Education and authorised the Manager and Principal to initiate the process.

9. In the meeting held on 2nd April, 2018, however, the issue relating to the Petitioner's request for regularisation was deferred, and the Respondents state that the minutes of the earlier meeting dated 30th January, 2018 were subsequently amended and circulated.

10. Around the same period, information was supplied under the Right to Information Act, 2005, by the school. The RTI reply dated 8th May, 2018 records that the post of Librarian was vacant in the school since 1st August, 1999; that the pay scale of Librarian was PB-2 INR 9300-34800 with Grade



Pay INR 4200 under the VI Central Pay Commission, corresponding to the applicable VII CPC matrix; and that Sh. Zulfiqar Haider was working against the post of Librarian purely on temporary basis from the Managing Committee. The reply further stated that no correspondence had taken place with the Directorate of Education relating to filling up the post of Librarian, as per record.

11. The Managing Committee minutes dated 16th November, 2019 also form part of the record. In that meeting, the Principal informed the Committee that only one Librarian on temporary basis was working in the school since long and was handling the affairs of a huge library. The Committee resolved to appoint a Library Attendant on temporary basis from Managing Committee funds to assist the Librarian. It was also resolved that library timings be increased to provide extra study material and time to hostellers and students. The Petitioner's working hours were fixed from 8:00 a.m. to 5:00 p.m., with an enhanced honorarium of INR 2,000 per month in addition to his existing monthly honorarium.

12. The Respondents issued advertisements for temporary appointments in 2016, 2017, 2018, 2019 and 2020. The Petitioner applied pursuant to such advertisements and was selected for the respective academic sessions. The school, however, states that no appointment was made pursuant to the advertisement issued in July, 2020 due to Covid-19 and financial constraints. The Petitioner, however, maintains that he continued to remain associated with the institution thereafter as well.

13. On 1st June, 2020, the Secretary of the Delhi Education Society issued a letter to the Petitioner stating that his term as Assistant Warden of M.M. Begg (Boys) Hostel would expire in June, 2020 and directing him to vacate



the hostel premises within one month. The Petitioner requested that he be permitted to continue as Assistant Warden and to retain accommodation, citing his long service as Librarian, the low fixed honorarium paid to him, his family circumstances, and the earlier endorsement made on his representation requesting continuance till his Librarian position was made permanent. By letter dated 1st July, 2020, the Society granted him one month's extension and directed him to vacate by 31st July, 2020.

14. The Petitioner then filed *W.P.(C) 8318/2020*. The writ petition seeks, among other reliefs, quashing of the refusal or inaction of the Respondents in not regularising him on the post of Librarian and a direction to regularise his services on completion of ten years' service, i.e. from 27th June, 2019, with consequential benefits.

15. On 22nd October, 2020, at the initial hearing of the writ petition, this Court recorded the statement of counsel for Respondent Nos. 1 and 2 that "at present the answering Respondents are not contemplating either dispensing with the services of the Petitioner or directing her (sic) to vacate the accommodation given to the Petitioner by the Respondents."

16. The Petitioner thereafter filed *CONT.CAS(C) 933/2021* alleging violation of the order dated 22nd October, 2020. The contempt petition is premised on the assertion that the Respondents, despite the statement recorded before the Court, prevented him from working, withheld wages and attempted to dislodge him from the premises.

17. On 14th July, 2021, this Court directed the Directorate of Education to file an affidavit on specific issues concerning the post and the Petitioner's eligibility. Pursuant thereto, the Directorate filed a compliance affidavit stating that the recruitment rules prescribe the qualifications for the post of



Librarian; that one sanctioned post of Librarian in Respondent No.1 school stood vacant under the post-fixation for the academic year 2018-2019; and that, according to the Head of School/Manager, the Petitioner possessed the requisite qualifications for the post.

18. The affidavit further sets out the procedure governing regular appointments in government-aided schools. It states that prior clearance from the Directorate is required before filling a vacant post through direct recruitment; the vacancy must be advertised in national-level Urdu, English and Hindi newspapers; names of eligible candidates are also required to be called from the Employment Exchange; applications must be scrutinised by a Screening Committee; a marking scheme is to be prepared; and a Selection Committee under Rule 96 of the Delhi School Education Act and Rules, 1973 is required to conduct the selection process. Interview dates are thereafter fixed by the Directorate in consultation with the Managing Committee. According to the Directorate, none of these procedural requirements was followed in the Petitioner's case. It is further stated that no correspondence regarding his appointment was ever made with the Directorate and that no appointment letter was issued to him.

19. On 24th February, 2023, the Court directed the Respondent school to file an additional affidavit on five aspects: the date from which the post of Librarian was lying vacant in the school; the communication or intimation sent by the school to the Directorate regarding existence of the vacancy; proposals initiated to fill up the post on regular basis and, if so, when and why regular selection had not taken place; the procedure for regular appointment to the post of Librarian; and the procedure adopted for appointing the Petitioner and the nature of his appointment during the



preceding decade.

20. In response, the school filed affidavits stating, in substance, that the Librarian post had remained vacant since 1st August, 1999 after the retirement of the previous Librarian; that temporary engagements had been made from school/management/PTA funds; that the Petitioner was engaged only on temporary/ad hoc basis; that regular appointment required Directorate approval; that the school had not received approval for a regular appointment to the post; and that the Petitioner could not claim regularisation when the statutory procedure under the Delhi School Education Act and Rules had not been followed.

21. The Respondents also brought on record communications to DoE relating to attempts to secure clearance for filling vacant posts. They rely on a communication dated 6th August, 2013 from the Education Officer, Zone XXVII, stating that before submitting the clearance file, the school should complete all DPC cases first, and that no clearance would be issued till completion of the DPC process. The school submits that despite attempts to obtain *clearance* or complete formalities, the regular appointment process could not fructify for reasons involving Directorate-level requirements and pending compliances. It emphasises that it never received final approval or clearance from the Directorate for regular appointment of the Petitioner against the Librarian post.

22. The Respondents also filed applications seeking directions for vacation of the accommodation occupied by the Petitioner, asserting that the premises had been allotted in connection with his duties as Assistant Warden, that the hostel ceased functioning after the onset of Covid-19, and that the Petitioner had undertaken on 8th August, 2023 to vacate the



premises.

23. The record shows that on 24th July, 2023, the matter was adjourned as counsel for the Petitioner sought accommodation on the ground that arguing counsel was indisposed. On 20th September, 2023, notice was issued on an application filed by Respondent Nos. 1 and 2 seeking directions for vacation of premises. On 20th October, 2023, the Respondents' application for early hearing was dismissed.

24. On 12th March, 2026, the Court recorded submissions on behalf of the Petitioner that he had been serving as Librarian since July, 2009 pursuant to a public recruitment process; although termed temporary, the engagement bore several incidents of regular appointment; his tenure had been extended continuously from year to year; and he had at all times remained willing to discharge duties but was prevented from doing so by the Respondents. The Court also recorded the Petitioner's willingness to explore an alternative arrangement if the school was similarly inclined to arrive at a workable solution. Counsel for the Delhi Education Society accordingly sought instructions on whether any regular arrangement or other mutually workable terms could be explored.

25. Pursuant thereto, an emergent meeting of the Managing Committee was held on 19th March, 2026, chaired by the Vice Chancellor, Jamia Millia Islamia/President, Delhi Education Society. The Committee considered four broad questions: whether regular recruitment could be initiated in a time-bound manner after DoE approval for the post of Librarian; whether, as a one-time measure, the Petitioner could be given relaxation to apply for the post subject to selection; whether time could be granted for vacation of premises; and whether the school could afford to pay any remuneration.



26. The Committee resolved, *inter alia*, to initiate the regular recruitment process upon receipt of DoE approval for the post of Librarian; to seek clarification from the DoE regarding the possibility of granting one-time relaxation to the Petitioner; and to require the Petitioner to vacate the premises. It was also recorded that the Petitioner was not entitled to any further remuneration, the school having already paid INR 3 lakh for the period from 1st July, 2020 to 30th November, 2022, without prejudice.

27. On 15th April, 2026, counsel for the Delhi Education Society placed the aforesaid resolutions before the Court. The Respondents were directed to place the same on record by way of affidavit, with liberty to the Petitioner to file a response thereto. In his response, the Petitioner disputes the assumptions underlying the minutes and submits that the exercise was intended to explore a fair arrangement rather than to place the unilateral position of the Respondents on record as a settlement.

Submissions on behalf of the Petitioner:

28. Against this backdrop, Dr. Amit George, counsel for the Petitioner, makes the following submissions:

28.1. The Petitioner's case is not one of backdoor appointment. He entered service pursuant to a public advertisement in 2009. He was interviewed and selected. He thereafter applied even in response to the 2011 advertisement which invited applications for regular appointment to the post of Librarian. The school then continued to select him year after year, including against subsequent public advertisements. The school cannot now argue that the Petitioner's entry was illegal or clandestine.

28.2. The post of Librarian is a sanctioned post. DoE has itself admitted that one sanctioned post of Librarian was vacant in the school under the



post-fixation for academic year 2018-2019. It has also admitted that the Petitioner fulfils the prescribed qualifications. The Petitioner, therefore, satisfies the two essential requirements which often defeat regularisation claims: existence of a sanctioned vacancy and eligibility of the incumbent.

28.3. Petitioner had no control over whether the school obtained clearance from DoE, published the advertisement in the precise manner contemplated under the rules, requisitioned names from the Employment Exchange, or constituted a Selection Committee under Rule 96. These duties rested on the school, its Managing Committee and the Directorate. The Petitioner could only apply when the post was advertised, appear when called, and work when selected. Having made him work for more than a decade on a salary far below the regular pay scale, the Respondents cannot rely on their own administrative failure to defeat his claim.

28.4. The Petitioner places reliance on *Secretary, State of Karnataka v. Uma Devi*,¹ particularly the distinction between illegal and irregular appointments. It is urged that *Uma Devi* was intended to prevent backdoor appointments, not to legitimise exploitation of employees who entered through public-facing processes, possessed the requisite qualifications, and served for years against sanctioned or perennial posts.

28.5. The Petitioner further relies on *Narendra Kumar Tiwari v. State of Jharkhand*² and *Jaggo v. UOI*³ to submit that the law does not permit public authorities to continue employees for long periods on insecure terms and then deny regularisation by invoking technicalities of their own making. These decisions restore the true balance in service jurisprudence by

¹ (2006) 4 SCC 1.

² (2018) 8 SCC 238.



requiring courts to look at the substance of employment, not the label. The Petitioner stands on an even stronger footing because he was qualified, was selected through public advertisements, worked in a school library on a recurring institutional post, and DoE itself admits the existence of a sanctioned vacancy.

28.6. Reliance is also placed on the Division Bench judgment of this Court in *Pawan Sharma & Ors. v. Government of NCT of Delhi & Ors.*⁴ to submit that employees who have been selected through a process mirroring regular recruitment and have served continuously in essential posts cannot be compelled to participate in a fresh recruitment process after their substantive right to regularisation has accrued. According to the Petitioner, a direction merely permitting him to compete afresh with age relaxation would not cure the injustice. It would allow the Respondents to benefit from the very default which has kept him temporary for years.

28.7. On wages, it is submitted that the Petitioner was willing to work and was prevented from doing so. The salary chart shows payment up to May, 2020, which belies the Respondents' assertion that the engagement automatically ended in March, 2020. The Petitioner also relies on library records showing library-related transactions after March, 2020, including entries in the Daily Issue Register in June and July, 2020 and a library voucher processed later in 2020. These documents show that the Respondents' plea of complete closure of the library after 23rd March, 2020 is overstated.

28.8. On accommodation, it is contended that the Petitioner's occupation

³ 2024 SCC OnLine 3826.

⁴ 2025:DHC:9789-DB.



was not unauthorised at inception. He was permitted to reside in the premises because he was assigned Assistant Warden duties and because the salary paid to him was too low to sustain accommodation outside. The Petitioner, however, does not claim title or permanent right in the premises. The principal relief remains regularisation and consequential service benefits. If regularisation is directed and reasonable time is granted, the Petitioner would abide by the order of the Court regarding vacation of the premises.

28.9. In the contempt petition, it is contended that the Respondents violated the order dated 22nd October, 2020. The order recorded that they were not contemplating either dispensing with the Petitioner's services or directing him to vacate the accommodation. Yet, the Respondents prevented him from working, withheld his wages, proceeded with steps to fill the post and repeatedly moved for eviction. This, Petitioner asserts, amounts to wilful disobedience.

Submissions on behalf of Respondent Nos. 1 and 2:

29. *Per contra*, Mr. Pritish Sabharwal, counsel for Respondents No. 1 & 2, advances the following submissions:

29.1. Petitioner was never appointed on regular basis. His initial engagement was temporary, on fixed honorarium and for one academic session. No formal appointment letter appointing him to a regular post was issued. The advertisement of July, 2009 itself contemplated appointment on consolidated remuneration. The Petitioner was aware from the beginning that he was not being appointed against a regular post on a regular pay scale.

29.2. The Respondent-school, being a government-aided minority institution governed by the Delhi School Education Act and Rules, submits



that no regular appointment to the post of Librarian could have been made without compliance with the statutory procedure and approval of the Directorate of Education. No such approval was ever granted in the Petitioner's case. Appointments against aided posts carry financial implications for the public exchequer, the school receiving 95% grant-in-aid, and therefore no direction for regularisation can be issued contrary to the statutory recruitment framework.

29.3. Respondent Nos.1 and 2 rely on the stand taken by the DoE. The Directorate has clearly stated that no correspondence was made with it regarding the Petitioner's appointment, that the Petitioner was not appointed through the regular procedure prescribed for aided schools, and that no appointment letter was issued. This is sufficient to reject the prayer for regularisation.

29.4. The school did attempt to process vacant posts and obtain clearance from DoE, but the Directorate required completion of pending DPC cases and other compliances before clearance could be issued. The school cannot be faulted for not regularising the Petitioner when the Directorate did not grant approval or clearance for regular appointment. At the highest, the Petitioner may have a right to participate in a future regular recruitment process if DoE grants clearance, but he cannot seek direct regularisation.

29.5. The 30th January, 2018 Managing Committee resolution did not regularise the Petitioner. It merely resolved to forward his request to the competent authority. It created no enforceable right and no legitimate expectation. In any event, the said agenda was deferred in the subsequent meeting dated 2nd April, 2018 and was never pursued.

29.6. It is also submitted that the Petitioner was engaged from temporary



funds and was re-engaged from year to year in accordance with need. Moreover, the Petitioner's engagement came to an end in March, 2020 with the conclusion of the academic session 2019-2020. The July, 2020 advertisement did not result in any appointment because of the Covid-19 pandemic and shortage of funds. The hostel and library, remained closed from 23rd March, 2020. The Petitioner did not perform duties thereafter and is therefore not entitled to wages.

29.7. The Court should not use equity to override the recruitment discipline under the Delhi School Education Act and Rules. They submit that ***Uma Devi*** continues to bar regularisation where appointments are not made in accordance with the constitutional scheme of public employment.

29.8. On accommodation, the Respondents submit that the premises were provided only because the Petitioner was given additional charge as Assistant Warden. That arrangement came to an end. The hostel has remained closed since Covid-19. The Petitioner has no right, title or interest in the premises. The Respondents further allege that he has not paid rent, water or electricity charges and that the premises have deteriorated. They also rely on the alleged undertaking given by the Petitioner in 2023 to vacate the premises by 8th August, 2023 irrespective of the result of the writ petition.

29.9. On contempt, the Respondents submit that the order dated 22nd October, 2020 did not contain any injunction or undertaking. It only recorded a statement that "at present" the Respondents were not contemplating dispensing with the Petitioner's services or directing him to vacate. It did not restrain future action, did not direct payment of salary and did not create any continuing right of occupation. The contempt petition, is,



therefore, an attempt to convert disputed service claims into contempt proceedings.

Submissions on behalf of Respondent No.3, Directorate of Education:

30. The Directorate submits that Respondent No.1 is a private recognised aided school receiving 95% grant-in-aid. It relies on Section 2(d) of the Delhi School Education Act, 1973 and Rule 98(2) of the Delhi School Education Rules, 1973. It states that appointments in aided schools are regulated and that regular appointments must be made through the procedure prescribed under the Act and Rules.

31. In its first counter affidavit, the Directorate took the position that the Petitioner was engaged on temporary/ad hoc basis from PTA funds, without any appointment letter, without approval from the Directorate and without following the procedure under the Delhi School Education Act and Rules. It relied on the decisions in *Sheela v. State of Delhi*,⁵ *NCT of Delhi & Ors. v. Champa Dev*,⁶ and *Rajesh Kumar v. Govt. of NCT of Delhi*⁷ to submit that such engagements cannot be regularised.

32. In its compliance affidavit, the Directorate has, however, admitted that one sanctioned post of Librarian is vacant in Respondent No.1 school under the current post-fixation for academic year 2018-2019. It has also recorded that the Head of School/Manager informed it that the Petitioner fulfils the prescribed qualifications for the post of Librarian.

33. The Directorate maintains that these admissions do not entitle the Petitioner to automatic regularisation. It submits that regular appointment requires clearance from DoE, advertisement in national-level Urdu, English

⁵ MANU/DE/8948/2007.

⁶ In *LPA 716/2004*, decided on 6th February, 2006.



and Hindi newspapers, names from the Employment Exchange, screening, preparation of a marking scheme, constitution of a Selection Committee under Rule 96, and interview in consultation with the Directorate. According to the Directorate, these steps were not followed in the Petitioner's case. It submits that government funds cannot be used to perpetuate an appointment made dehors the rules.

Questions for determination

34. In light of the pleadings, material on record and submissions advanced, the following questions arise for consideration:

- (i) Whether the Petitioner's engagement as Librarian was a backdoor or illegal appointment, or whether it was, at the highest, an irregular appointment made through public-facing recruitment processes against a continuing institutional need.
- (ii) Whether the existence of one sanctioned vacant post of Librarian in the Respondent school, as admitted by the Directorate of Education under the post-fixation for academic year 2018-2019, and the admitted fact that the Petitioner fulfils the prescribed qualifications, alter the legal character of the Petitioner's claim.
- (iii) Whether the Respondents can defeat the Petitioner's claim for regularisation by relying on their own failure to obtain Directorate clearance or to complete the regular appointment process under the Delhi School Education Act and Rules.
- (iv) Whether, in light of ***Uma Devi, Narendra Kumar Tiwari, Jaggo, and Pawan Sharma***, the Petitioner is entitled to regularisation on the post of Librarian, and if so, from which date and with what monetary consequences.

⁷ In W.P.(C) 133990/2004, decided on 13th August, 2004.



(v) Whether the Petitioner is entitled to wages or other monetary dues for the period after March, 2020, particularly in view of the order dated 22nd October, 2020, the salary details up to May, 2020, the subsequent payment of INR 3 lakh, and the disputed evidence regarding work after March, 2020.

(vi) Whether the Petitioner has any subsisting right to retain the accommodation in the school premises after cessation of the Assistant Warden arrangement, and if not, what reasonable time and conditions should be fixed for vacation.

(vii) Whether the order dated 22nd October, 2020 contains a clear, continuing and unambiguous direction whose wilful breach would justify action in contempt.

(viii) What final directions should be issued in the writ petition, the connected applications and the contempt petition.

Discussion, findings and relief

35. The questions framed above are best considered under four heads: first, the true character of the Petitioner's engagement; second, the effect of the admitted sanctioned vacancy and the failure to follow the full statutory process; third, the consequence for regularisation and monetary benefits; and fourth, accommodation and contempt.

A. The legal position: Uma Devi and the later course of authority

36. Any adjudication on regularisation must begin with ***Uma Devi***. That decision was rendered to arrest the practice of public employment being filled through the side-door, without open competition and in disregard of Articles 14 and 16 of the Constitution. It was not a charter for public employers to continue qualified persons for years on temporary wages against recurring institutional needs, and then to plead their own irregularity



as a shield against regularisation.

37. Paragraph 53 of *Uma Devi* itself preserves the distinction between an illegal appointment and an irregular appointment. The Constitution Bench recognised that where duly qualified persons had been appointed in duly sanctioned vacant posts and had continued for ten years or more without the protection of court orders or tribunal orders, their cases required consideration for regularisation as a one-time measure. The governing factor is not the label used by the employer. It is whether the appointment was an illegal or surreptitious entry into public service, or whether it was an irregular appointment of a qualified person against a real and recurring post.

38. The Supreme Court in *State of Karnataka v. M.L. Kesari*,⁸ explained this aspect of *Uma Devi*. It held that the benefit of paragraph 53 was available where the employee had completed ten years of service, the appointment was against a sanctioned post, the employee possessed the prescribed qualification, and the appointment was not illegal. The decision is significant because it cautions against a mechanical application of *Uma Devi*. It clarifies that *Uma Devi* did not foreclose all claims for regularisation, but only barred regularisation that would legitimise unconstitutional appointments.

39. In *Nihal Singh v. State of Punjab*,⁹ the Supreme Court declined to permit the employer to rely on its own failure to create or process posts when the work was, in reality, essential and continuous. *Narendra Kumar Tiwari*, similarly held that *Uma Devi* cannot be applied in a narrow or technical manner so as to perpetuate unfairness against those who had

⁸ (2010) 9 SCC 247.

⁹ (2013) 14 SCC 65.



served for long periods.

40. The law has since moved with greater clarity. In *Vinod Kumar v. Union of India*,¹⁰ the Supreme Court held that the rights flowing from employment cannot be determined only by the initial terms of appointment where the actual course of employment has evolved over time. The Court emphasised continuous service, performance of duties indistinguishable from regular employees and selection through a process mirroring regular recruitment. The Court also held that procedural formalities at the commencement of employment cannot be used forever to deny substantive rights accrued through long and continuous service.

41. *Jaggo* carries that principle further. The Supreme Court held that long and uninterrupted service cannot be brushed aside merely by labelling the initial appointment as part-time or contractual. The Court cautioned that *Uma Devi* is often misapplied to deny legitimate claims of long-serving employees. It held that where appointments are not illegal but merely lack adherence to procedural formalities, reliance on *Uma Devi* to reject the claim would distort the judgment and weaponise it against those who had rendered indispensable service for years. The Court directed reinstatement and regularisation, though it denied back wages for the period not worked while preserving continuity for retiral benefits. In *Shripal v. Nagar Nigam, Ghaziabad*,¹¹ the Supreme Court again held that *Uma Devi* cannot be used as a shield to justify exploitative engagements persisting for years, particularly where the work is perennial and the employer has not

¹⁰ (2024) 9 SCC 327.

¹¹ 2025 SCC OnLine 221.



undertaken legitimate recruitment. In *Dharam Singh v. State of U.P.*,¹² the Supreme Court went further and held that public institutions cannot continue extracting recurring public work for decades while pleading want of sanctioned strength. The State, the Court observed, is a constitutional employer and cannot balance budgets on the backs of those who perform recurring public functions.

42. The Division Bench of this Court in *Pawan Sharma* decided on 10th November, 2025, has applied this line of authority. The Court held that where employees are selected through a process which mirrors regular recruitment, have worked continuously for years, and perform essential duties, they earn a substantive right to regularisation. It further held that such employees cannot be compelled to participate in a fresh recruitment exercise after that right has matured.

43. The thread running through these decisions is plain. The Court must look at the reality of the relationship. It must ask whether the employee was a backdoor entrant, whether the work was real and recurring, whether the employee was qualified, whether the employer continued the engagement for years, and whether the procedural default was attributable to the employee or to the employer. The answer to those questions determines whether the appointment is illegal or merely irregular.

B. Character of the Petitioner's engagement

44. The Petitioner's engagement cannot be described as backdoor. The entry point was a public advertisement in 2009. The school does not dispute that the Petitioner applied, appeared before a Selection Committee and was selected. The school seeks to characterise that process as temporary and

¹² 2025 SCC OnLine SC 1735.



session-wise. That may describe the label attached to the appointment. It does not describe the substance of what followed.

45. The Petitioner continued as Librarian for years. The school's own records recognise that he had been working as Librarian since 26th June, 2009. The RTI reply records that he was working against the post of Librarian from the Managing Committee. The Managing Committee minutes dated 30th January, 2018 recorded his long service, the vacancy in the Librarian post and the payment of remuneration from the Managing Committee account. The minutes dated 16th November, 2019 record that only one Librarian on temporary basis was working in the school "since long" and handling the affairs of a huge library. The Committee then resolved to appoint a Library Attendant to assist him and to increase the library timing.

46. These are not isolated or informal notings, but institutional records reflecting the school's own understanding that the Petitioner was discharging the functions of Librarian. They also demonstrate that the work was neither casual nor incidental. In a senior secondary school, a library is an essential institutional requirement and not merely an optional facility. The existence of a sanctioned post of Librarian, as acknowledged by the Directorate itself, further confirms the regular and recurring nature of the duties performed.

47. The Respondents' plea that the Petitioner was engaged only for ten months at a time also does not sit well with the salary material placed on record. The salary details show payments from January, 2014 to May, 2020 on a month-to-month basis, including payments in months which the Respondents now treat as breaks. The entries for March, April and May,



2020 are particularly relevant, because the Respondents now say that the engagement came to an end in March, 2020. If that was so, the payments for April and May, 2020 required explanation. None has been offered which would permit the Court to accept, without qualification, that the relationship simply ended in March, 2020.

48. It is equally relevant that in 2011 the school issued an advertisement inviting applications for regular appointment to, among other posts, the post of Librarian. The Petitioner's application in response to that advertisement is also on record. The Respondents cannot therefore contend that the Petitioner never participated in a regular selection process. The record shows otherwise. If the school failed to carry the process to its logical and lawful conclusion, the lapse cannot be attributed to him.

49. The Respondents have also relied on later advertisements of 2016, 2017, 2018, 2019 and 2020. The school's own case is that the Petitioner was repeatedly selected in the subsequent academic sessions. This fact becomes important. Repeated selection after public advertisements may still fall short of a full statutory recruitment under the Delhi School Education Act and Rules. But it is not clandestine. It is not favouritism hidden from public view. It is not a case where a person was inducted into service without any public-facing process and thereafter sought regularisation by length of time alone.

50. The nature of the appointment must therefore be stated accurately. The Petitioner's engagement was not a regular appointment made in full compliance with DSEAR. But it was also not an illegal backdoor appointment. It was, at the highest, an irregular appointment of a qualified person, through public-facing processes, against a continuing need which the



school itself recognised year after year.

C. Effect of the DoE compliance affidavit

51. The compliance affidavit of the Directorate of Education is decisive in narrowing the controversy. It records that one sanctioned post of Librarian is vacant in the Respondent school under the current post-fixation for the academic year 2018-2019. It also records that the Head of School/Manager informed the Directorate that the Petitioner fulfils the required qualifications for the post of Librarian.

52. The Court is conscious that the Petitioner entered in 2009, whereas the Directorate's affidavit speaks of the current post-fixation for academic year 2018-2019. That distinction has been kept in mind. This judgment does not proceed on a direction that the Petitioner must be treated as regularly appointed from 2009. The relevant point is this: by academic year 2018-2019, on the Directorate's own showing, a sanctioned Librarian post existed and was vacant. The Petitioner was already discharging the duties of Librarian. He completed ten years of service on 26th June, 2019. The relief must therefore be calibrated from that point, not from the initial engagement in 2009.

53. The Respondents emphasise the other side of the Directorate's affidavit. They say that regular appointment required DoE clearance, advertisement in Urdu, English and Hindi newspapers, requisition of names from the Employment Exchange, screening, preparation of a marking scheme, constitution of a Selection Committee under Rule 96, and interview in consultation with the Directorate. They also emphasise that these steps were not followed in the Petitioner's case. This submission is correct to this extent: the Petitioner was not appointed through the complete statutory



procedure prescribed for regular appointment to an aided school post.

D. Consequence of procedural non-compliance

54. The fact that the complete statutory procedure for regular appointment was not followed does not, by itself, conclude the controversy. The question that arises is whether the consequence of such institutional non-compliance must fall entirely upon the Petitioner.

55. The Petitioner had no authority to issue a three-language advertisement, seek DoE clearance, call for names from the Employment Exchange, constitute a Rule 96 Selection Committee or obtain approval from the Directorate. These were obligations of the school, its Managing Committee and the Directorate. The Petitioner could not regularise himself. He could only respond to the advertisements issued by the school, appear when called, discharge duties when selected and continue to work as long as the school took work from him.

56. The school and the Directorate cannot convert their own institutional failure into a defence against the Petitioner. Where the school required a regular Librarian, it was obliged to initiate and pursue the statutory recruitment process, including obtaining DoE clearance and completing all necessary compliances. Equally, upon noticing that a person was being continued for years against an aided post without regular recruitment, the Directorate could not remain indifferent and later contend before the Court that the employee alone must suffer the consequence.

57. A public or aided institution cannot run a post through temporary labour for years and later say that the worker's claim must fail because the institution itself never completed the legal process. That approach would not vindicate *Uma Devi*. It would invert it. *Uma Devi* was intended to protect



constitutional recruitment. It was not intended to immunise administrative neglect or to legitimise long-term extraction of work at a fraction of the regular scale.

58. The facts of the present case are, in one respect, stronger than those in several recent Supreme Court decisions. Here, the post is not to be inferred from the perennial nature of duties alone. The Directorate admits one sanctioned vacant post of Librarian from academic year 2018-2019. The Petitioner's qualification is also admitted. He was not a casual entrant. His engagement had origins from public facing recruitment and repeated selection. The only missing element is strict compliance with the regular appointment procedure. That missing element was not within his control.

E. The Respondents' reliance on Sheela, Champa Devi and Rajesh Kumar

59. The decisions relied upon by the Respondents were rendered in the context of private or PTA engagements, appointments not made against regular posts, and claims founded largely on length of service. They cannot govern the present case without regard to the later development of law and the distinct facts here.

60. In the present case, the existence of a sanctioned vacant post is admitted by the Directorate; the Petitioner's qualifications are undisputed; and the school's own records reflect his long discharge of duties as Librarian. The earlier Delhi decisions cannot therefore be applied divorced from these distinguishing features.

61. Further, subsequent decisions of the Supreme Court, as noted above, have clarified that the description of an engagement as temporary, ad hoc or contractual is not by itself determinative. Where the appointment is not shown to be illegal, the employee has continued for years against regular



work, and the employer itself has perpetuated the arrangement through inaction, the claim cannot be rejected solely on the basis of nomenclature. The authorities relied upon by the Respondents must accordingly be read subject to the later developments in law.

F. Whether the Petitioner is entitled to regularisation

62. The Petitioner satisfies the substantive requirements emerging from ***Uma Devi, M.L. Kesari*** and the subsequent decisions. His qualifications are undisputed; he had completed more than ten years of service before approaching the Court; and by academic year 2018-2019, a sanctioned post of Librarian existed and remained vacant. His initial engagement followed a public advertisement and interview, and the school continued to utilise his services for years against regular institutional work.

63. The Respondents' submission that the Petitioner should merely be permitted to participate in a future recruitment process with age relaxation cannot be accepted. Such a course would compel a person who has already served the institution for over a decade to compete afresh solely because the employer failed to complete a process entirely within its own control. That would perpetuate, rather than remedy, the underlying injustice.

64. ***Pawan Sharma*** answers this aspect directly. Once a substantive right to regularisation accrues by reason of public-facing selection, long and blemish-free service and performance of essential duties, the employee cannot be relegated to a fresh recruitment exercise. Such a course would allow the employer to sidestep the law declared by the Supreme Court.

65. The Petitioner is therefore entitled to regularisation on the post of Librarian. However, the date and financial consequences require careful treatment. The Petitioner seeks regularisation from 27th June, 2019, the date



on which he completed ten years. The Directorate's affidavit confirms the sanctioned vacant post under post-fixation for academic year 2018-2019. The date claimed by the Petitioner is therefore appropriate. It does not treat the initial engagement in 2009 as a regular appointment. It recognises that by 27th June, 2019 the Petitioner had completed ten years, was discharging Librarian duties, was qualified, and the sanctioned vacancy stood acknowledged for the immediately preceding academic year.

66. The Petitioner shall accordingly be regularised on the post of Librarian with effect from 27th June, 2019.

G. Monetary consequences

67. The next question is monetary relief. The Supreme Court has not applied one rigid formula in all cases. In **Jaggo**, regularisation and continuity were granted, but back wages for the period not worked were denied. In **Dharam Singh**, monetary relief was granted because of the peculiar facts, including repeated arbitrary refusals to sanction posts and long pending claims. **Pawan Sharma** directed fixation of pay treating the Petitioners as regularly appointed *ab initio*, with all benefits, except back wages.

68. The present case calls for a structured relief. The Petitioner actually worked at least until May, 2020, as shown by the salary record. For the period from 27th June, 2019 to 31st May, 2020, he was discharging the functions of Librarian and was paid only honorarium. Once regularisation is directed from 27th June, 2019, he is entitled to the difference between the regular pay and allowances admissible to the post of Librarian and the amounts actually paid to him for that period.

69. The period after May, 2020 stands on a different footing. The



Petitioner says that he was always ready and willing to work and was prevented from doing so. The Respondents say that the library and hostel remained closed after the Covid lockdown and that he did not discharge duties. The record does not permit a finding in the absolute terms suggested by either side. The salary chart shows payment until May, 2020. The library issue register and voucher material show that the Respondents' assertion of complete closure of library activity after March, 2020 is overstated. At the same time, the Petitioner has not produced attendance material sufficient to prove full regular discharge of duties after May, 2020.

70. In these circumstances, the just course is to follow the principle adopted in *Jaggo* and *Pawan Sharma*. The Petitioner shall not receive full back wages for the period during which he did not actually work. However, the period from 1st June, 2020 till the date on which he is permitted to resume duties pursuant to this judgment shall count for continuity of service, seniority, pay fixation and retiral benefits. No break in service shall be recorded for that period.

71. The amount of INR 3 lakh already paid to the Petitioner for the period from 1st July, 2020 to 30th November, 2022 pursuant to orders of the Court shall not be recovered. Since that payment was made under orders of the Court and without any adjudicated finding of misconduct or unjust enrichment, it shall be adjusted only against any monetary amount found payable for the relevant period, if such amount becomes payable on verification of actual work. In no event shall regularisation be delayed or withheld on the ground of adjustment of the said amount.

72. If the Petitioner claims that he actually discharged specific library duties after 31st May, 2020, he may submit supporting material to the school



within four weeks. The school shall consider such material, including library vouchers, issue-register entries and any other official record, and pass a reasoned order within eight weeks thereafter. For any period for which actual work is found to have been performed, the Petitioner shall be paid the differential amount on the basis of regular pay admissible to the post, after adjusting amounts already received.

73. The Petitioner shall be entitled to regular pay and allowances attached to the post of Librarian from the date he resumes duties pursuant to this judgment. The Respondents shall not insist on a fresh selection, age relaxation exercise or fresh competition for his regularisation.

H. Accommodation

74. The Petitioner's occupation of the premises began lawfully. He was assigned additional duties as Assistant Warden in 2014 and was permitted to reside in the campus. The accommodation was therefore not unauthorised at inception.

75. That said, the Petitioner has no permanent or independent right in the accommodation. The premises were not allotted to him as an incident of the Librarian post. They were connected with the additional responsibility of Assistant Warden. The hostel has admittedly not functioned in the same manner after Covid-19. The Assistant Warden arrangement cannot be converted into a perpetual right of residence.

76. The Petitioner having now succeeded on the principal service claim, it is necessary to separate his employment rights from his occupation of the school premises. Regularisation as Librarian does not carry with it a right to retain the accommodation. The Respondents are entitled to recover possession, but the recovery process must not be unduly harsh, and the



Petitioner should be afforded reasonable time to make alternate arrangements.

77. The Petitioner is granted four months from the date of this judgment to vacate the premises and hand over peaceful vacant possession to Respondent Nos.1 and 2. During this period, the Respondents shall not take coercive steps for dispossession. The Petitioner shall not induct any third party, shall not make any structural alteration, shall not obstruct inspection for safety or repair, and shall cooperate with the school in preparing an inventory and condition report of the premises.

78. The Respondents' claim for past rent, electricity, water charges, damage or mesne profits involves disputed facts. There is no separate meter placed before the Court. The allegations of damage and unauthorised repair are contested. Those claims cannot be adjudicated conclusively in the present writ proceedings. They are left open to be pursued in accordance with law before the appropriate forum. Such disputed claims shall not be used to delay the Petitioner's regularisation or release of service benefits directed by this judgment.

I. Contempt

79. The contempt petition rests on the order dated 22nd October, 2020. The order records the statement of counsel for Respondent Nos.1 and 2 that, at that stage, the Respondents were not contemplating either dispensing with the Petitioner's services or directing him to vacate the accommodation.

80. The order undoubtedly carries evidentiary significance. If the Respondents now contend that the Petitioner's engagement had come to an end in March, 2020, no such position was conveyed to the Court on 22nd October, 2020. Rather, the statement recorded on that date was that the



Respondents were not contemplating dispensing with his services. This circumstance has weighed with the Court while assessing the writ petition and the equities arising in the matter.

81. The issue of contempt, however, stands on a different footing. Civil contempt requires breach of a clear, precise and unambiguous direction, coupled with wilful disobedience. The order dated 22nd October, 2020 contains no express restraint against the Respondents from taking future action. Nor does the order direct payment of salary, continuation of service till disposal of the writ petition, or continued occupation of the premises pending final adjudication. The expression “at present” assumes significance, as it merely recorded the position represented before the Court on that date.

82. In such circumstances, it would not be appropriate to punish the Respondents in contempt. The disputes concerning service, salary, recruitment and accommodation were live and have now been adjudicated in the writ petition. The conduct of the Respondents may have justified relief in the writ proceedings, but the order dated 22nd October, 2020 does not furnish a sufficient foundation for punitive contempt action.

83. *CONT.CAS(C) 933/2021* is accordingly disposed of. Notice, if any, stands discharged. This disposal shall not dilute the directions issued in the writ petition.

J. Final directions

84. For the reasons aforesaid, *W.P.(C) 8318/2020* is allowed in the following terms:

(i) The Petitioner, Sh. Zulfiquar Haidar, shall be regularised on the post of Librarian in Anglo Arabic Senior Secondary School with effect from 27th



June, 2019.

- (ii) Respondent Nos. 1 and 2 shall forward all papers required for formal regularisation and approval to the Directorate of Education within four weeks from today. The forwarding shall not describe the matter as a proposal for fresh recruitment or fresh selection. It shall be forwarded as a case of regularisation pursuant to this judgment.
- (iii) Respondent No. 3, Directorate of Education, shall process and grant approval to the Petitioner's regularisation within eight weeks of receipt of the papers from Respondent Nos. 1 and 2. The Directorate shall confine verification to the existence of the sanctioned vacancy, the Petitioner's qualifications, identity, age record, and absence of any statutory disqualification. It shall not reject the case on the ground that the initial appointment did not follow the full regular appointment procedure, since that issue has been adjudicated by this judgment.
- (iv) If Respondent Nos. 1 and 2 fail to forward the papers within four weeks, the Petitioner may submit a certified copy of this judgment directly to the Directorate, whereupon the Directorate shall call for the record from the school and process approval without awaiting any further request from the school.
- (v) The Petitioner shall be notionally placed in the regular pay scale attached to the post of Librarian with effect from 27th June, 2019. For the period from 27th June, 2019 to 31st May, 2020, he shall be paid the difference between regular pay and allowances admissible to the post and the amounts actually paid to him.
- (vi) For the period from 1st June, 2020 until the date he resumes duties pursuant to this judgment, the Petitioner shall not be entitled to full back



wages merely by reason of regularisation. That period shall, however, count for continuity of service, seniority, pay fixation and retiral benefits. No break in service shall be recorded.

(vii) The amount of INR 3 lakh already paid to the Petitioner shall not be recovered. It may be adjusted only against any amount payable for the same period if, on verification, actual work is found to have been performed and monetary benefits are released for that period.

(viii) The Petitioner may, within four weeks, submit material to Respondent Nos. 1 and 2 to establish actual discharge of duties after 31st May, 2020. The school shall consider the material and pass a reasoned order within eight weeks thereafter. For any period for which actual work is found, differential pay shall be released on the basis of the regular Librarian scale after adjustment of amounts already received.

(ix) The Petitioner shall be permitted to resume duties as Librarian within two weeks of approval by the Directorate. If the Directorate does not pass an order within the time fixed above, the Petitioner shall be permitted to resume duties provisionally, without prejudice to final formal approval.

(x) Current and future salary from the date of resumption shall be paid in the regular scale admissible to the post of Librarian. Arrears directed by this judgment shall be computed and released within twelve weeks from the date of approval by the Directorate.

(xi) The Petitioner shall vacate the accommodation in the school premises within four months from today and hand over peaceful vacant possession to Respondent Nos. 1 and 2. During this period, he shall not induct any third party or make any alteration in the premises and shall cooperate with inspection and preparation of an inventory/condition report.



(xii) The Respondents' claims, if any, for past rent, electricity, water charges, damages or mesne profits are left open to be pursued in accordance with law. Such claims shall not be adjusted against salary, arrears or service benefits unless determined by a competent forum or admitted by the Petitioner.

85. All pending applications in *W.P.(C) 8318/2020* stand disposed of in the above terms.

86. *CONT.CAS(C) 933/2021* stands disposed of. No order as to costs.

SANJEEV NARULA, J

MAY 19, 2026/ab