

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 3699 of 2024

The Management of Sail Refractories Unit, IFICO Refractories Plant,
Marar, Hazaribagh, through its Executive Director, Mr. Prasanna
Kumar Rath Petitioner

Versus

Manoj Kumar & Others Respondents

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Petitioner:	Mr. Rupesh Kumar, Sr. Advocate Mr. Shresth Gautam, Advocate Mr. Himanshu Harsh, Advocate
For the Respondents:	Mrs. M.M. Pal, Sr. Advocate Ms. Manjushri Patra, Advocate Ms. Mahua Palit, Advocate Ms. Shipra Salini, Advocate

09/Dated: 16.09.2025

I.A. No. 12831 of 2025 & I.A. No.9360 of 2025

1. Heard the learned counsel for the parties.
2. It is not in dispute that the respondents herein have been appointed against the vacant and sanctioned post on 04.08.1998, 01.07.1997, 10.12.1997, 14.04.1997, 14.04.1997, 05.03.2004 and 03.07.2000 respectively by the erstwhile Bharat Refractories Limited amalgamated with the appellant herein.
3. It is further not in dispute that as many as 119 casual workers who had completed more than 10 years of continued service under the erstwhile Bharat Refractories Limited as on 02.05.2003 were ordered to be regularized for granting them all benefits at par with regular employees under the Management since 02.05.2003. It is yet again not in dispute that similar placed 11 casual workmen who were junior to the concerned workmen in the reference case were also regularized so also 70 casual workmen followed by 36 workmen also regularized. It is only the respondents herein who despite having completed more than 20 years of service have only been regularized on 21.03.2025 and yet the appellant would pray for staying the judgment passed by the learned Central

Administrative Tribunal, Patna Bench, Patna, Circuit Bench at Ranchi in O.A. No. 051/00128/2017 dated 12.03.2024, which has passed directions to the following effect:-

“45. The services of the applicants are directed to be regularized with all consequential benefits from the date of completing ten years along with arrears from the date of regularization of service. The respondents are further directed to complete the formalities in the manner directed above and same shall be completed within period of three months from the date of receipt of the certified copy of the order passed today failing which the interest shall be paid @ 6 percent per annum from the date of entitlement till final payment.”

4. The Hon'ble Supreme Court in its recent judgment in Dharam Singh & Ors. v. State of U.P. & Anr dated 19.08.2025 has categorically observed that when public institutions depend, day after day, on the same hands to perform permanent tasks, equity demands that those tasks are placed on sanctioned posts, and those workers are treated with fairness and dignity. The appellants therein had been engaged by the Commission between 1989 and 1992 and served as Class-IV employees and drivers respectively and paid as daily wagers with effect from 08.04.1997. On 24.10.1991 the Commission resolved to create fourteen posts in Class-III and Class-IV and sought sanction from the State Government. The process continued. Eventually, the State rejected the proposal citing financial constraints, constraining the appellants therein to file a writ petition seeking quashing of the decision made by the State Government and further prayer for creation/sanctioning of fourteen posts of Class-III/IV employees.
5. On 24.04.2002, the High Court directed the Commission to send a fresh recommendation or sanction of appropriate Group-C/Group-D posts and directed the State to take a decision afresh. Pursuant thereto, a fresh recommendation was sent, however, the State again declined to grant sanction by citing financial grounds and a ban on creation of new posts.

6. The learned Single Judge of the High Court vide its order dated 19.05.2009 dismissed the writ petition holding that there were no rules for regularization in the Commission and also held that the regularization was impermissible in view of the law laid down by the Hon'ble Supreme Court in **Secretary, State of Karnataka & Others v. Umadevi & Others** reported in **(2006) 4 SCC 1**. An Inter Court appeal was filed by the appellants therein, which came to be dismissed on the ground that the appellants were daily waged workers and there were no rules for regularization in the Commission and that no vacancy existed for consideration.
7. Aggrieved by the said judgment, the appellants approached the Hon'ble Supreme Court and the Hon'ble Supreme Court while allowing the petition observed as under:-

“11. Furthermore, it must be clarified that the reliance placed by the High Court on Umadevi (Supra) to nonsuit the appellants is misplaced. Unlike Umadevi (Supra), the challenge before us is not an invitation to bypass the constitutional scheme of public employment. It is a challenge to the State's arbitrary refusals to sanction posts despite the employer's own acknowledgement of need and decades of continuous reliance on the very workforce. On the other hand, Umadevi (Supra) draws a distinction between illegal appointments and irregular engagements and does not endorse the perpetuation of precarious employment where the work itself is permanent and the State has failed, for years, to put its house in order. Recent decisions of this Court in Jaggo v. Union of India and in Shripal & Another v. Nagar Nigam, Ghaziabad have emphatically cautioned that Umadevi (Supra) cannot be deployed as a shield to justify exploitation through long-term “ad hocism”, the use of outsourcing as a proxy, or the denial of basic parity where identical duties are exacted over extended periods. The principles articulated therein apply with full force to the present case. The relevant paras from Shripal (supra) have been reproduced hereunder:

- “14. The Respondent Employer places reliance on Umadevi (supra)² to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, Uma Devi itself distinguishes between appointments that are “illegal” and those that are “irregular,” the latter being eligible for regularization if they meet certain conditions. More importantly, Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment. Given the record which shows no true contractor-based arrangement and a consistent need for permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices.*
- 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 India³ 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.””

12. We also note the Commission’s affidavit filed in 21.04.2025 pursuant to the order of this Court dated 27.03.2025, wherein reference has been made to a supervening reorganisation in 2024, whereby the U.P. Higher Education Services Commission was merged into the U.P. Education Services Selection Commission and, by a Government Order of

05.07.2024, certain Group-C posts were sanctioned while Class-IV/Driver requirements were proposed to be met through outsourcing. We must point out however, that supervening structural change cannot extinguish accrued claims or pending proceedings. The successor body steps into the shoes of its predecessor subject to liabilities and obligations arising from the prior regime. More fundamentally, a later policy to outsource ClassIV/Driver functions cannot retrospectively validate earlier arbitrary refusals, nor can it be invoked to deny consideration to workers on whose continuous services the establishment relied for decades.

13. As we have observed in both **Jaggo (Supra)** and **Shripal (Supra)**, outsourcing cannot become a convenient shield to perpetuate precariousness and to sidestep fair engagement practices where the work is inherently perennial. The Commission's further contention that the appellants are not "full-time" employees but continue only by virtue of interim orders also does not advance their case. That interim protection was granted precisely because of the long history of engagement and the pendency of the challenge to the State's refusals. It neither creates rights that did not exist nor erases entitlements that may arise upon a proper adjudication of the legality of those refusals.
14. The learned Single Judge of the High Court also declined relief on the footing that the petitioners had not specifically assailed the subsequent decision dated 25.11.2003. However, that view overlooks that the writ petition squarely challenged the 11.11.1999 refusal as the High Court itself directed a fresh decision during pendency, and the later rejection was placed on record by the respondents. In such circumstances, we believe that the High Court was obliged to examine the legality of the State's stance in refusing sanction, whether in 1999 or upon reconsideration in 2003, rather than dispose of the matter

on a mere technicality. The Division Bench of the High Court compounded the error by affirming the dismissal without engaging with the principal challenge or the intervening material. The approach of both the Courts, in reducing the dispute to a mechanical enquiry about “rules” and “vacancy” while ignoring the core question of arbitrariness in the State’s refusal to sanction posts despite perennial need and long service, cannot be sustained.

15. Therefore, in view of the foregoing observations, the impugned order of the High Court cannot be sustained. The State’s refusals dated 11.11.1999 and 25.11.2003, in so far as they concern the Commission’s proposals for sanction/creation of Class-III/Class-IV posts to address perennial ministerial/attendant work, are held unsustainable and stand quashed.

16. The appeal must, accordingly, be allowed.”

8. It would be evident from the aforesaid judgment that public sector company like the appellant herein is required to work as a model employer and cannot resort to adhocism of daily wage employment in perpetuity by exploiting its workmen. The appellant cannot deny basic parity where identical duties are extracted from the workmen like the respondents herein as with the regularly appointed employees.
9. It needs to be reiterated that where workmen continuously rendered the service over several years sometimes more than two decades as in the instant case, the same clearly proves that the work in question is permanent in nature. Clearly, in this case the appellant has persuasively misused the temporary employment/ daily wage employment which has adversely affected the rights of the respondents/ workmen and the job security.
10. At this stage, it shall be apt to quote the following observations of the Hon'ble Supreme Court in Chairman and MD NTPC Ltd. Vs. Rashmi Construction Builders and Contractors (2004) 2 SCC 663:-

"28. Further, necessitas non habet legem is an age-old maxim which means necessity knows no law. A person may sometimes have to succumb to the pressure of the other party to the bargain who is in a stronger position."

11. Notably the respondents herein are none other than the functionaries of the State who are expected to function like a model employer. A model employer is under an obligation to conduct itself with high probity and expected candour and the employer, who is duty bound to act as a model employer has social obligation to treat an employee in an appropriate manner so that an employee is not condemned to feel totally subservient to the situation. A model employer should not exploit its employees and take advantage of their helplessness and misery. The conduct of the respondents falls short of expectation of a model employer.

12. The Hon'ble Supreme Court in its decision in Bhupendra Nath Hazarika and another Vs. State of Assam and others, (2013) 2 SCC 516 has succinctly explained this position in the following terms:-

"61. Before parting with the case, we are compelled to reiterate the oft stated principle that the State is a model employer and it is required to act fairly giving due regard and respect to the rules framed by it. But in the present...7...case, the State has atrophied the rules. Hence, the need for hammering the concept.

62. Almost a quarter century back, this Court in Balram.Gupta V. Union of India 1987 Supp SCC 228 had observed thus: (SCC p. 236, para 13)

"13.... As a model employer the Government must conduct itself with high probity and candour with its employees."

In State of Haryana V. Piara Singh (1992) 4 SCC 118 the Court had clearly stated: (SCC p. 134, para 21).

"21....The main concern of the court in such matters is to ensure the rule of law and to see that the Executive acts fairly and gives a fair deal to its employees consistent with the requirements of Articles 14 and 16."

63. In State of Karnataka V. Umadevi (3) (2006) 4 SCC 1 (SCC P. 18, para 6) the Constitution Bench, while discussing the role of State in recruitment procedure, stated that if rules have been

made under Article 3089 of the Constitution, then the Government can make appointments only in accordance with the rules, for the State is meant to be a model employer.

64. In Mehar Chand Polytechnic V. Anu Lamba (2006) 7 SCC 161 (SCC p. 166, para 16) the Court observed that public employment is a facet of right to equality envisaged under Article 16 of the Constitution of India and that the recruitment rules are framed with a view to give equal opportunity to all the citizens of India entitled for being considered for recruitment in the vacant posts.

65. We have stated the role of the State as a model employer with the fond hope that in future a deliberate disregard is not taken recourse to and deviancy of such magnitude is not adopted to frustrate the claims of the employees. It should always be borne in mind that legitimate aspirations of the employees are not guillotined and a situation is not created where hopes end in despair. Hope for everyone is gloriously precious and a model employer should not convert it to be deceitful and treacherous by playing a game of chess with their seniority. A sense of calm sensibility and concerned sincerity should be reflected in every step. An atmosphere of trust has to prevail and when the employees are absolutely sure that ...8...their trust shall not be betrayed and they shall be treated with dignified fairness then only the concept of good governance can be concretised. We say no more."

13. It is more than settled that the social justice is the conscience of our Constitution and the State is the promoter of economic justice, the founding faith which sustains the Constitution and the country is Indian humanity. The public sector is a model employer with a social conscience not an artificial person without soul to be damned or body to be burnt (*Krishna Iyer, J in Som Prakash Rekhi v. Union of India* (1981) 1 SCC 449).
14. If the present factual matrix is tested on the anvil of the aforesaid principles, there can be no trace of doubt that the appellant has conveniently ostracized the concept of "model employer". It would not be wrong to say that they have done so with pacific calmness,

sans vision, shorn of responsibility and oblivious of their role in such a situation. Their action reflects the attitude of emotionlessness, proclivity of impassivity and deviancy with cruel impassibility. The appellant has never thought for a moment about the injustice being meted out to the respondents. They have remained totally alien to the situation to which the respondents have been driven to. In such a situation the appellant cannot act like an alien. It has an active role to play. It has to have a constructive and progressive vision.

15. Lastly and importantly, even the purported order of regularization dated 21.03.2025 makes it abundantly clear that the appellant in fact has not regularized the services of the respondents but have issued fresh appointment clearly ignoring the decades of service rendered by them.
16. We see no reason to stay the impugned order dated 12.03.2024 passed by the learned Central Administrative Tribunal, Patna Bench, Circuit Bench at Ranchi in O.A. No. 051/00128/2017.
17. Accordingly, I.A. No. 12831 of 2025 is dismissed. I.A. No. 9360 of 2025 stands disposed of.
18. The personal appearance of Sri. P.K. Rath, Executive Director SAIL/SRU as directed by order dated 02.09.2025 is dispensed with.
19. List this case for hearing in due course.

(Tarlok Singh Chauhan, C.J.)

(Rajesh Shankar, J.)

16.09.2025
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