

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 9542/2009

Shri Ram Ratan Alias Ratan Lal Saini S/o Nathu Lal Saini, 22,
Civil Lines Quarters, District Tonk, Rajasthan.

-----Petitioner

Versus

1. The Director, College Education, Shiksha Sankul, J.I.n.
Marg, Jaipur.
2. Principal, Government College, Tonk.

-----Respondents

For Petitioner(s)	: Mr. Akshay Yadav
For Respondent(s)	: Mr. Aditya Singh, Dy. G.C.

HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Judgment

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| 1. Date of conclusion of arguments | <u>25/02/2026</u> |
| 2. Date on which the judgment
was reserved | <u>25/02/2026</u> |
| 3. Whether the full judgment or only the
operative part is pronounced | <u>Full Judgment</u> |
| 4. Date of pronouncement | <u>27/02/2026</u> |

Reportable

1. By way of filing the present writ petition under Article 226 of the Constitution of India, the petitioner has sought his regularization in the services and grant of salary for the post of Peon, with all consequential and future benefits from the date of initial appointment.
2. Briefly stated, the petitioner was appointed in the office of respondent No.2 vide order dated 23.02.1981 (Annexure-1), and his engagement was extended from time to time vide orders dated

24.07.1986 and 31.10.1986. The petitioner was appointed as a daily wager after the Employment Exchange sponsored his name.

3. The services of the petitioner were terminated by an oral order dated 30.06.1988, and thereafter he raised an industrial dispute before the Labour Court. The Labour Court, after considering the facts and circumstances of the case, passed an award dated 05.06.2008 directing the respondents to reinstate the petitioner on the post of Peon and held the termination to be null and void, albeit without back wages.

4. Pursuant to the award, the petitioner joined service; however, he is being paid only daily wages. It is to be noted that another similarly placed person, namely Madan Lal, whose services were also terminated, was granted permanent status pursuant to the order passed by a Co-ordinate Bench of this Court in the case of **Madan Lal Vs. State of Rajasthan**, S.B. Civil Writ Petition No.6864/1993 decided on 25.01.1994.

5. Thereafter, the petitioner submitted a representation seeking a grant of permanent status, stating that he had worked continuously as a daily wager from 23.02.1981 to 30.06.1988, i.e., for about seven years, and thereafter, pursuant to the award of the Labour Court, has continued in service.

6. In the reply, the respondents admit that the petitioner was appointed on 23.02.1981 and was reinstated pursuant to the award dated 05.06.2008. It is also admitted that another daily wager, Madan Lal, was granted permanent status pursuant to the directions passed in the case of **Madan Lal (supra)**. However, it is denied that the petitioner is entitled to parity with Madan Lal on

the ground that he had served for only 7 years and, therefore, is not entitled to regularisation. Further, it is stated that the award passed by the Labour Court merely directed reinstatement of the petitioner without back wages and did not confer any right to regularisation or grant of regular pay scale.

Arguments on behalf of Petitioner -

7. Learned counsel for the petitioner, at the outset, does not press for relief of regularization and confines his prayer to the grant of minimum wages as applicable to other similarly situated persons.

8. It is submitted that vide order dated 23.02.1981, the petitioner and other similarly placed persons were appointed as daily wagers after their names were called from the Employment Exchange, and their engagement was extended from time to time vide orders dated 24.07.1986 and 31.10.1986.

9. It is further submitted that Madan Lal, who was also engaged as a daily wager vide order dated 24.07.1986, was granted regularisation pursuant to the order passed in the case of **Madan Lal (supra)**.

10. Learned counsel for the petitioner has placed reliance upon the judgments passed by the Hon'ble Supreme Court in the case of **Dharam Singh & Ors. Vs. State of Uttar Pradesh & Anr., 2025 INSC 998; Jaggo Vs. Union of India & Ors., 2024 SCC OnLine SC 3826; and Shripal & Anr. Vs. Nagar Nigam, Ghaziabad, 2025 SCC Online SC 221**. Further, reliance is also placed upon the judgment passed by a Co-ordinate Bench of this Court in **Sunita Vs. State of Rajasthan & Ors., 2026:RJ-**

JP:908, whereby the review petition preferred by the State was dismissed.

Arguments on behalf of Respondents -

11. Per Contra, learned counsel for the respondents submits that the petitioner has not specifically claimed relief for the grant of a minimum pay scale in parity with other similarly situated persons. It is contended that the petitioner continued as a daily wager and cannot claim parity with regularly appointed employees. In this regard, reliance is placed upon the judgment passed by the Hon'ble Supreme Court in the case of **Manish Gupta & Anr. Vs. President, Jan Bhagidari Samiti & Ors., 2022 INSC 460**, wherein it was held that an 'ad hoc' appointee is not entitled to salary in accordance with the UGC circular when the advertisement itself provided that the appointee would be paid honorarium as decided by the Committee. It is thus submitted that the petitioner, being a daily wager, is not entitled to claim parity with regularly appointed employees.

12. Further reliance is placed upon the judgment passed in the case of State of **Rajasthan Vs. Krishan Kumar**, D.B. Civil Special Writ No.603/2021 decided on 10.11.2021, wherein, in light of the judgment delivered by the Apex Court in the matter of **Secretary, State of Karnataka vs. Umadevi, (2006) 4 SCC 1**, it was held that services cannot be regularised contrary to the constitutional scheme.

13. Heard learned counsel for the parties and perused the material available on record.

Court's Analysis -

14. It is not disputed that the petitioner was appointed as a daily wager vide order dated 23.02.1981, along with Madan Lal, who has been granted the benefit of regularization and consequential benefits.

15. It is also not denied that the petitioner worked continuously as a daily wager from 23.02.1981 to 30.06.1988. Further, pursuant to the award dated 05.06.2008, the petitioner was reinstated and joined the department on 16.10.2018 and has since been working continuously as a daily wager.

16. Although the petitioner has not pressed for the relief of regularisation, his prayer for the grant of minimum pay as extended to Madan Lal requires consideration. In the case of **Madan Lal (supra)**, the Court directed regularization, which necessarily included the grant of pay scale and consequential benefits.

17. In the case of **Krishan Kumar Saini (supra)** the Division Bench, while setting aside the direction of regularization passed by the learned Single Judge in light of judgment passed by the Hon'ble Apex Court in the case of **Umadevi (supra)**, directed that the concerned employee be paid notional benefits from the past period and actual difference in salary prospectively from the date of judgment.

18. In the recent judgment of **Dharam Singh (supra)**, the Hon'ble Supreme Court, after referring to the dictum laid down in case of **Jaggo and Shripal (supra)** observed as under:-

“17. Before concluding, we think it necessary to recall that the State (here referring to both the Union and the State governments) is not a mere market participant but a constitutional employer. It cannot balance budgets on the backs of those who perform the most basic and recurring public functions. Where work recurs day after day and year after year, the establishment must reflect that reality in its sanctioned strength and engagement practices. The long-term extraction of regular labour under temporary labels corrodes confidence in public administration and offends the promise of equal protection. Financial stringency certainly has a place in public policy, but it is not a talisman that overrides fairness, reason and the duty to organise work on lawful lines.

18. Moreover, it must necessarily be noted that “ad-hocism” thrives where administration is opaque. The State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious engagement over sanctioned posts where the work is perennial. If “constraint” is invoked, the record should show what alternatives were considered, why similarly placed workers were treated differently, and how the chosen course aligns with Articles 14, 16 and 21 of the Constitution of India. Sensitivity to the human consequences of prolonged insecurity is not sentimentality. It is a constitutional discipline that should inform every decision affecting those who keep public offices running.”

19. It was held by the Apex Court that the State is not merely a market participant but a constitutional employer and cannot balance its finances at the cost of employees performing recurring public functions. It was further observed that where work is perennial in nature, the establishment must reflect such reality in its sanctioned strength and engagement practices. Moreover, it was observed that prolonged engagement of regular labour under

a temporary nomenclature offends the guarantee of equality and fairness and have cautioned against the culture of “ad-hocism” thriving in opaque administrative structures.

20. In **Randhir Singh v. Union of India, (1982) 1 SCC 618**, the Apex Court categorically held that although the principle is not expressly declared a fundamental right, it is certainly a constitutional goal capable of enforcement in cases of unequal scales of pay based on irrational classification. It was observed that employees performing similar duties and responsibilities cannot be subjected to discriminatory pay structures without a reasonable basis. The principle was further extended in the case of **Dhirendra Chamoli v. State of U.P., (1986) 1 SCC 637**, wherein the Court held that even casual or daily-rated employees performing the same duties as regular employees are entitled to receive wages at par, and denial thereof would amount to exploitation.

21. More recently, in the case of **State of Punjab v. Jagjit Singh, (2017) 1 SCC 148**, the Hon’ble Supreme Court reaffirmed and authoritatively summarised the law on the subject and held as under:-

“**49.1.** We are of the considered view, that in para 44 extracted above, the Constitution Bench clearly distinguished the issues of pay parity and regularisation in service. It was held, that on the issue of pay parity, the concept of “equality” would be applicable (as had indeed been applied by the Court, in various decisions), but the principle of “equality” could not be invoked for absorbing temporary employees in government service, or for making temporary employees regular/permanent. All the observations made in the above-extracted paragraphs, relate to the subject of regularisation/permanence, and not, to the principle of

"equal pay for equal work". **As we have already noticed above, the Constitution Bench unambiguously held, that on the issue of pay parity, the High Court ought to have directed that the daily-wage workers be paid wages equal to the salary, at the lowest grade of their cadre.** This deficiency was made good by making such a direction."

22. The Hon'ble Apex Court, again in the matter of **Shah Samir Bharatbhai v. State of Gujarat, 2025 SCC OnLine SC 1788**, held as follows:

"**22.** In *Sabha Shanker Dube v. Forest Officer, (2019) 12 SCC 297*, while drawing the distinction between claims for regularization, and parity in pay, this Court affirmed the constitutional principle of equal pay for equal work and held:

"**12.** In view of the judgment in Jagjit Singh [State of Punjab v. Jagjit Singh], we are unable to uphold the view of the High Court that the appellants herein are not entitled to be paid the minimum of the pay scales. **We are not called upon to adjudicate on the rights of the appellants relating to the regularisation of their services. We are concerned only with the principle laid down by this Court initially in Putti Lal [State of U.P. v. Putti Lal], relating to persons who are similarly situated to the appellants and later affirmed in Jagjit Singh [State of Punjab v. Jagjit Singh], that temporary employees are entitled to minimum of the pay scales as long as they continue in service.**" (Emphasis Supplied)

23. The respondents have failed to justify the petitioner's extended engagement as a labourer beyond a reasonable period without a formal appointment. It appears that the respondents are reluctant to appoint the petitioner as a regular employee to avoid incurring the ongoing financial liability associated with such an appointment, including salary, benefits, and pension contributions.

It is a fundamental duty of the respondents to clarify or convincingly demonstrate to the court that this prolonged engagement, characterised by temporary or ad hoc arrangements, is intended for a specific, limited period, such as during peak workload or administrative exigencies, and not as a permanent substitute for a regular employee. The petitioner, in his pleadings, has stated that he is performing the duty of a class 1v and that the services of similarly engaged labourer Madan Lal have been regularised along with consequential benefits.

24. In the absence of any specific pleadings to the contrary, the only logical inference the court can draw is that the petitioner is effectively performing all the duties associated with a class four employee. These duties typically include assisting with operational tasks associated with the regularly appointed class-four employee, thereby supporting his claim for the grant of minimum pay scale.

Conclusion -

25. The respondents are accordingly directed to pay the minimum pay scale applicable for class IV employee from the date of order after adjusting the amount already paid to him as daily wages.

26. The respondents shall comply with the order within three months, if respondents fails to comply with the order within a period of three months, then the petitioner shall also be entitled to get 9 % per annum on the aforesaid minimum pay scale.

27. In above terms, the instant writ petition stands allowed.

28. All pending application(s), if any also stands disposed of.
There shall be no order as to costs.

(PRAVEER BHATNAGAR),J

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