HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Special Appeal Writ No. 844/2025

In

S.B. Civil Writ Petition No.5896/2017

Mohd. Sadik S/o Shri Mohd. Shakil, Resident Of Nagori Mohalla, Babaji Ki Chawani, Dausa.

----Appellant

Versus

1. The State Of Rajasthan, Through Director, Saksharta Avem Satat Shiksha, Govt. Of Rajasthan, Gopinath Marg, Jaipur.
2. Chairman And District Collector, Saksharta Avem Satat Shiksha, Dausa.
3. Secretary And Additional Collector, Vikas Saksharta Avem Satat Shiksha, Dausa, Rajasthan.
4. D.O. Saksharta Avem Satat Shiksha, Dausa.

----Respondents

For Appellant(s)	:	Mr. M.F. Baig, Adv.
For Respondent(s)	:	Mr. Sachin Singh Rathore, AAAG

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SANGEETA SHARMA

Judgment

Date of conclusion of Arguments : 12h February,2026
Date on which judgment was reserved : 12h February,2026
Whether the full judgment or only the operative part is pronounced : Full judgment
Date of pronouncement : 16th March, 2026

Per Mrs. Sangeeta Sharma, J:

1. The present special appeal (writ) arising out of order dated 28.04.2025 passed by the learned Single Judge in S.B. Civil Writ Petition No.5896/2017 whereby the writ petition preferred by the

appellant-writ petitioner challenging the order dated 15.06.2015 was rejected as under:-

> *"6. Bare perusal of notification dated 27.02.2009, under which the petitioner is claiming the benefits of regularization would reveal that in compliance of the aforesaid judgment delivered by Hon'ble Supreme Court,* ***State of Karnataka(supra)****, one time scheme was framed, which lays down that only those candidates who had completed ten years of service as on 10.04.2006 would be considered for granting benefit of regularization, admittedly, petitioner did not complete 10 years of service as on 10.04.2006.*
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> *7. In view of above, where the action taken by the respondents is strictly in accordance with notification dated 27.02.2009, no interference is called for in the writ petition filed by the petitioner is hereby dismissed. "*

2. The brief facts of the case are that the appellant-writ petitioner was initially appointed as a driver by the respondent w.e.f 26.06.1997. His services were terminated on 18.08.2000 against which appeal was filed before Labour Court No.2, Jaipur (hereinafter referred to as the ' Labour Court'). Vide order dated 17.09.2009 (Annexure-1 of the writ petition) Labour Court proceeded to allow the claim of the appellant-writ petitioner and was reinstated in service with continuity on the post of driver. Respondent-Department(s) assailed the aforesaid award by filing a writ petition before this Court which came to be dismissed on 27.07.2011, pursuant to which the appellant-writ petitioner rejoined service on 17.10.2012. Post re-instatement, the appellant-writ petitioner was not granted the regular pay scale and was not considered for regularization of his service. Thereupon, he preferred a S.B. Civil Writ Petition No. 9758/2013 seeking inter alia ground of regular pay scale and other consequential benefits. The said writ petition was disposed of vide order dated 06.05.2014 (Annexure-2 of the writ petition) directing the appellant-writ petitioner to submit a detailed representation to the respondents

who were in turn directed to consider and decide the same by a speaking order including the aspect of regularization.

3. In compliance of the aforesaid direction, the appellant-writ petitioner submitted his representation which was rejected by the respondents vide order dated 15.06.2015 (Annexure-3 of the writ petition) primarily on the ground that appellant-writ petitioner was a daily wager and had not completed 10 years of service as on 10.04.2006, the cutoff date pursuant to the judgment of the Hon'ble Apex Court in the case of ***Secretary, State of Karnataka vs. Uma Devi, (2006) 4 SCC 1*** and further that, no sanctioned post of driver was vacant at the relevant time.

4. Aggrieved by the order dated 15.06.2015, the appellant-writ petitioner filed S.B. Civil Writ Petition No. 5896/2017 before this Court and the learned Single Judge vide order dated 28.04.2025 dismissed the writ petition by holding inter alia that the writ petitioner was not entitled to regularization, in view of the cut-off date of 10.04.2006 as held in ***Uma Devi(supra)*** as one time scheme.

5. Challenging the aforesaid order dated 28.04.2025, the appellant-writ petitioner has preferred this instant special appeal raising various grounds including, that by the time of the impugned order, he had rendered more than 28 years of continuous service from the date of his initial appointment. Further, it is stated that the post of driver was available when his case was considered by the Screening Committee in 2015. The alleged application of the cut-off date, 10.04.2006 creates discrimination between similarly placed employees and is contrary to the spirit of Uma Devi(supra) case, as clarified by the Hon'ble

Apex Court in ***Jaggo vs. Union of India & Ors., 2024 SCC OnLine SC 3826*** and ***Dharam Singh & Ors. vs. State of U.P. & Ors., 2025 SCC OnLine SC 1735***. It is further stated that the appellant-writ petitioner was superannuated on 31/07/2025, while rendering services as a daily wage worker.

6. During the course of arguments, learned counsel for the appellant-writ petitioner submits that the appellant-writ petitioner had completed 28 years of services and in the judgment of ***Uma Devi(supra)***, the Hon'ble Apex Court held that any employee who has completed 10 years of services in the establishment would be considered for regularization. However, the learned Single Judge has dismissed the writ petition on the pretext that as on 10.04.2006, the appellant-writ petitioner had not completed 10 years of service. Learned counsel further submits that when the appellant-writ petitioner case was considered by the Screening Committee on 15.06.2015, vacancy for driver was available and at that time, he had completed 18 years of service. Nevertheless, his case for regularization was arbitrarily rejected. The learned Single Judge neither considered this aspect nor the legal aspect and the principles laid down by the Hon'ble Apex Court in the case of ***Uma Devi(supra)***.

7. Per contra, learned counsel for the respondents submits that the appellant-writ petitioner was engaged as a daily wage worker on a temporary basis, so his appointment was irregular and not against sanctioned post. Learned counsel further submits that since appellant-writ petitioner did not complete 10 years of service as on the cut-off date i.e. 10.04.2006 and in the judgment of ***Uma Devi(supra),*** regularization of service was treated as one-

time measure, so there is no illegality in the impugned order and the special appeal (writ) deserves to be dismissed.

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

9. For the adjudication of the present special appeal(writ), a brief discussion of the ratio laid down in the case of ***Jaggo vs. Union of India & Ors., 2024 SCC OnLine SC 3826, Vinod Kumar & Ors. vs. Union of India & Ors., (2024) 9 SCC 327 , Dharam Singh & Ors. vs. State of U.P. & Ors., 2025 SCC OnLine SC 1735*** & ***Prem Singh vs. State of U.P. (2019) 10 SCC 516*** is essential.

10. In the case of ***Jaggo(supra)*** wherein the Hon'ble Apex Court opined that if a low-paid employee is working for a prolonged period of time on irregular appointment, the dictum encapsulated in the judgment passed by the Hon'ble Apex Court in the case of ***Uma Devi(supra)*** will not create an impediment on their regularization as the same would result in exploitation and illegality. For the sake of convenience, the relevant portion of the ***Jaggo(supra)*** is reproduced as under:-

> *"12. Despite being labelled as "part-time workers," the appellants performed these essential tasks on a daily and continuous basis over extensive periods, ranging from over a decade to nearly two decades. Their engagement was not sporadic or temporary in nature; instead, it was recurrent, regular, and akin to the responsibilities typically associated with sanctioned posts. Moreover, the respondents did not engage any other personnel for these tasks during the appellants' tenure, underscoring the indispensable nature of their work.*
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> *16. The appellants' consistent performance over their long tenures further solidifies their claim for regularization. At no point during their engagement did the respondents raise any issues regarding their competence or performance. On the contrary, their services were extended repeatedly over the years, and their remuneration, though minimal, was incrementally increased which was an implicit acknowledgment of their satisfactory performance. The respondents' belated plea*

of alleged unsatisfactory service appears to be an afterthought and lacks credibility.

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20. It is well established that the decision in Uma Devi(supra) does not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment sought to prevent backdoor entries and illegal appointments that circumvent constitutional requirements. However, where appointments were not illegal but possibly "irregular," and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a scenario demanding fair regularization. In a recent judgement of this Court in Vinod Kumar and Ors. Etc. Vs. Union of India & Ors., it was held that held that procedural formalities cannot be used to deny regularization of service to an employee whose appointment was termed "temporary" but has performed the same duties as performed by the regular employee over a considerable period in the capacity of the regular employee. The relevant paras of this judgement have been reproduced below:

> *"6. The application of the judgment in Uma Devi(supra) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over a considerable period through continuous service.Their promotion was based on a specific notification for vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in the case of Uma Devi(supra).*
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> *7. The judgement in the case Uma Devi(supra) also distinguished between "irregular" and "illegal" appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case"*

21. The High Court placed undue emphasis on the initial label of the appellants' engagements and the outsourcing decision taken after their dismissal. Courts must look beyond the surface labels and consider the realities of employment: continuous, long-term service, indispensable duties, and absence of any mala fide or illegalities in their appointments. In that light, refusing regularization simply because their original terms did not explicitly state so, or because an outsourcing policy was belatedly introduced, would be contrary to principles of fairness and equity.

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25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of

temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long- term obligations owed to employees. These practices manifest in several ways:

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

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

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

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

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

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

11. Also, in ***Vinod Kumar(supra)***, the Hon'ble Supreme Court held as under:-

> *5. "……..this Court believes that the essence of employment and the rights thereof cannot be merely determined by the initial terms of appointment when the actual course of employment has evolved significantly over time. The continuous service of the appellants in the capacities of regular employees, performing duties indistinguishable from those in permanent posts, and their selection through a process that mirrors that of regular recruitment, constitute a substantive departure from the temporary and scheme-specific nature of their initial engagement. Moreover, the appellants' promotion process was conducted and overseen by a Departmental Promotional Committee and their sustained service for more than 25 years without any indication of the temporary nature of their roles being reaffirmed or the duration of such temporary engagement being specified, merits a reconsideration of their employment status."*
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> *xxxxx*
> *7. "The judgement in the case Uma Devi (supra) also distinguished between "irregular" and "illegal" appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case. Paragraph 53 of the Uma Devi (supra) case is reproduced hereunder:*
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> > *"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointment) as explained in S.V. Narayanappa [(1966) SCC Online SC 23, R.N. Nanjundappa (1972) 1 SCC 409 and B.N. Nagarajan [(1979) 4 SCC 507 and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme."*

12. Further, in ***Prem Singh(supra),*** a three Judges Bench of the Hon'ble Supreme Court held as under:-

> *"36. There are some of the employees who have not been regularized in spite of having rendered the services for 30-40 or more years whereas they have been superannuated. As they have worked in the work-charged establishment, not against any particular project, their services ought to have been regularized under the Government instructions and even as per the decision of this Court in Secretary, State of Karnataka & Ors. v. Uma Devi 2006 (4) SCC 1. This Court in the said decision has laid down that in case services have been rendered for more than ten years without the cover of the Court's order, as one time measure, the services be regularized of such employees. In the facts of the case, those employees who have worked for ten years or more should have been regularized. It would not be proper to regulate them for consideration of regularisation as others have been regularised, we direct that their services be treated as a regular one."*

13. Recently, the Hon'ble Supreme Court in ***Dharam Singh (Supra)*** in relevant paras has held as under:-

> *"8. The State's refusal of 11.11.1999 cites "financial constraints" and the subsequent decision of 25.11.2003 (taken after the High Court's direction to reconsider) adverts to financial crisis and a ban on creation of posts. Neither decision engages with relevant considerations placed on record, namely, the Commission's 1991 resolution and repeated proposals, the acknowledged administrative exigencies of a recruiting body handling large cycles, the continuous deployment of these very hands for years, and the existence of attendant work that is primarily perennial rather than sporadic. While creation of posts is primarily an executive function, the refusal to sanction posts cannot be immune from judicial scrutiny for arbitrariness. We believe that a non-speaking rejection on a generic plea of "financial constraints", ignoring functional necessity and the employer's own long- standing reliance on daily wagers to discharge regular duties, does not meet the standard of reasonableness expected of a model public institution.*
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> *9. Moreover, it is undisputed that the nature of work performed by the appellants, i.e. sorting and scrutiny of applications, dispatch and office support, and driving, has been continuous and integral to the Commission's functioning since their engagement between 1989 and 1992. The Commission itself movedfor sanction of fourteen posts and furnished a list of fourteen daily wagers including the appellants. That consistent internal demand, coupled with uninterrupted utilisation of the appellants' labour on regular office hours, fortifies the conclusion that the duties are perennial. To continue extracting such work for decades while pleading want of sanctioned strength is a position that cannot be sustained."*

14. In view of the above, it is clear that regularization is not a one-time measure. The State cannot continue to rely upon **Uma**

Devi(supra) to justify the engagement of employees for decades without extending the benefit of regular service. It is pertinent to mention that adjudication by the Labour Court, which is upheld by this court, does not constitute Judicial interference, but is an adjudication made by the Court whereby, the order of termination was set aside in legal proceeding, hence, the appellant-writ petitioner has not worked under the interim order of this court. Additionally, in the present matter, bare perusal of the award dated 17.09.2009, which is upheld by the Court vide order dated 27.07.2011 makes it clear that the services of the appellant-writ petitioner shall deemed to be continuous. Therefore, there can be no other view but that the initial appointment of the appellant-writ petitioner i.e. 26.06.1997 would be considered for the purpose of regularization. In the present matter, it is an admitted case by the respondent-department(s) that the appellant-writ petitioner remained posted as daily wage worker from 10.06.1997 to 31.07.2000 in District Literacy Committee, Dausa and from 17.10.2012, he continuously worked in Directorate Office and on completion of age of 60 years, he was superannuated on 31.07.2025.

15. In this backdrop, it is clear that the services rendered by the appellant-writ petitioner have been entirely blemish-free and no complaint has ever been made against him. Despite of all this, non-consideration of the appellant-writ petitioner for regularization by the respondent-department(s) reflects perpetuation of a temporary status of work of a perennial nature, thereby attracting judicial scrutiny and warranting intervention of this court. Thus, the Court cannot lose sight of the principle emerging from

Jaggo(supra) and subsequent decisions of the Hon'ble Apex Court which reflect a clear intention to safeguard the employees from exploitation.

16. Additionally, the State being a model employer, is expected to act as a parent towards its employees especially where the employees situated at the lower end of the socio-economic spectrum are concerned. In such a circumstances, the State is expected to act promptly and not to allow its officials to remain in a state of inaction, thereby compelling employees to approach the court for enforcement of their legal rights. Such employees cannot be left to serve indefinitely on daily wage, contractual, work charge or part-time posts without fair opportunity of regularization. Service jurisprudence also recognizes something more fundamental, that the State cannot be allowed to profit from its own inaction when an institution extracts work for decades and then pleads that there are no sanctioned posts. Therefore, a welfare State cannot run core public functions on the spine of contractual/ daily wage workers and then wash its hands by pointing to absence of sanctioned posts.

17. In this case, the appellant-writ petitioner had rendered 28 years of continuous and blemish-free services from the date of the initial appointment. In light of the law laid down by the Hon'ble Apex Court in the aforementioned cases, the order dated 28.04.2025 passed by the learned Single Judge in S.B. Civil Writ Petition No.5896/2017 cannot be sustained and deserves to be quashed and set aside.

18. Consequently, the present special appeal writ is allowed and the Respondent Department(s) are directed:

(i). To regularize the services of the appellant-writ petitioner after completion of 10 years from the date of his initial appointment and accordingly release consequential and retiral benefits as applicable qua the appellant-writ petitioner. The pay fixation shall be done notionally and actual payment shall be made from the date of filing of the writ petition.

(ii). that the above exercise shall be completed by the respondent department(s) within a period of three months from the date of receipt of the certified copy of this judgment.

19. All pending applications, if any, shall stand disposed of.

(SANGEETA SHARMA),J (SANJEEV PRAKASH SHARMA),ACTING CJ

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