HC-KAR

IN THE HIGH COURT OF KARNATAKA,AT DHARWAD

DATED THIS THE 10TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 102622 OF 2023 (S-REG)

BETWEEN:

RAMESH S/O. VENKATARAMANA HEGDE,
AGED ABOUT 68 YEARS,
OCC: RETIRED ATTENDAR CUM BILL COLLECTOR,
R/O: KULUVE VILLAGE, SIRSI TALUK, UTTARA KANNADA.
(SENIOR CITIZEN BENEFIT NOT CLAIMED)

...PETITIONER

(BY Ms. VAIBHAVI INMADAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
   DEPARTMENT OF PANCHAYAT RAJ AND
   RURAL DEVELOPMENT, M.S. BUILDING,
   BENGALURU – 01.

2. UTTARA KANNADA ZILLA PANCHAYAT,
   KARWAR-581 301,
   BY ITS CHIEF EXECUTVE OFFICER.

3. THE TALUKA PANCHAYAT,
   SIRSI, TALUKA: SIRSI,
   DIST: UTTARA KANNADA – 581 301,
   R/BY ITS CHIEF EXECUTIVE OFFICER.

4. THE KULUVE VILLAGE PANCHAYAT,
   KULUVE, SIRSI TALUK,
   DIST: UTTARA KANNADA – 581 301,
   R/BY ITS PANCHAYAT DEVELOPMENT OFFICER.

...RESPONDENTS

(BY Smt. GIRIJA S. HIREMATH, HCGP FOR R1;
SRI. VISHWANATH HEGDE, ADVOCATE FOR R2 TO R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT IN THE NATURE OF MANDAMUS TO RESPONDENT NOS.1 TO 3 TO REGULARIZE THE SERVICES OF THE PETITIONER IN THE RESPONDENT NO. 4 GRAM

PANCHAYAT AS ATTENDER CUM BILL COLLECTOR W.E.F. 10/01/1994 BY CONSIDERING THE PROPOSAL BEARING NO. JAAVAKA NA. 84 GRAM PAM/KULAVE/GRA.PAM.SIBBANDI/A/14-15 DATED 15/10/2014 VIDE ANNEXURE-P, AND ALSO THE ORDER PASSED BY THIS HON'BLE COURT IN W.P NO. 112917/2014 VIDE ANNEXURE-Q AND ETC.,

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING B GROUP THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE M.NAGAPRASANNA)

The petitioner is before this Court seeking a direction by issuance of a Writ in the nature of Mandamus to respondent Nos.1 to 3 to regularize the service of the petitioner in the 4th respondent-Gram Panchayat in the cadre of Attender cum Bill Collector with effect from 10.01.1994, as also the order passed by this Court in W.P.No.112917/2014.

2. Heard Ms.Vaibhavi Inamdar, learned counsel appearing for the petitioner, Smt.Girija S.Hiremath, learned HCGP appearing for respondent No.1 and Sri.Vishwanath Hegde, learned counsel appearing for respondent Nos.2 to 4.

3. Facts in brief, germane, are as follows:

(a) The petitioner joins the service of the 4th respondent-Gram Panchayat as an Attender cum Bill Collector

with a consolidated pay fixed at Rs.500/- by the 4th respondent-Gram Panchayat. The petitioner since then has been working on continuous basis. This fact is not in dispute. On 22.09.2006, a Resolution comes to be passed by the 4th respondent-Gram Panchayat increasing monthly salary of the petitioner-consolidated pay from Rs.500/- to Rs.800/-. Again the salary from Rs.800/- was increased to Rs.1,200/- in terms of another Resolution dated 05.03.2008. The petitioner then continued to work, submits a representation seeking enhancement of payment at Rs.2,500/- per month which was by then the prevailing consolidated pay rendered to identically placed employees.

(b) The petitioner goes on submitting representations for increase in pay and sought pay at Rs.3,059/- in terms of a representation dated 23.09.2010. When things stood thus, the Government of Karnataka issued a Notification revising minimum wages to employees who were working in local bodies. Pursuant to the Notification, a Resolution is passed by the Gram Panchayat increasing the monthly salary of the petitioner to Rs.2,500/- with effect from the said month and again to Rs.3,250/- on 13.12.2011. When things stood thus, the Taluk Panchayat, Sirsi

directs the 4th respondent-Gram Panchayat to initiate steps to regularize the service of the petitioner and accord the benefit of a Government order dated 04.01.2008. The 4th respondent then communicates to the Chief Executive Officer of the Taluk Panchayat that there has been delay in furnishing documents concerning the petitioner. Therefore, the regularization initiation has not come about.

(c) The petitioner then files a writ petition seeking a direction to the 4th respondent to regularize the service of the petitioner in W.P.No.112917/2014. During the subsistence of the said writ petition, the petitioner retires on attaining the age of superannuation on 31.12.2015. Therefore, the petitioner prior to his retirement, had rendered 21 years of continuous service and the proposal for regularizing the service of the petitioner was on the cards even before his retirement. The said writ petition filed in the year 2014 comes to be disposed on 19.11.2021 with a direction to consider the case of the petitioner for regularization which was not considered. Therefore, the petitioner had to invoke the contempt jurisdiction of this Court by filing CCC No.100086/2022 which comes to be disposed on 10.06.2022 on the score that the arrears of salary to the tune of Rs.1,71,258/-

was paid and it was in substantial compliance with the order passed by the learned Single Judge and the complainant-petitioner was rendered liberty to work out his remedies with regard to the proposal of regularization which was pending before the competent authority then. The non-regularization of the petitioner is what has driven him to this Court in the subject petition.

4. Learned counsel Ms.Vaibhavi Inamdar, appearing for the petitioner contends that the petitioner was appointed pursuant to a resolution of the Gram Panchayat, owing to a vacancy of the post of attender. He was continued in the said post up to the date of his retirement. During the subsistence of his service, regularization had been sought for, by submitting representations. The 4th respondent has also recommended the case of the petitioner for regularization. Taluk Panchayat also from time to time, had reminded that the petitioner is working for a minimum wage for close to two decades. Therefore, his case for regularization must be considered.

4.1. The learned counsel submits that as on the date of the judgment of the Apex Court in the case of **SECRETARY, STATE OF KARNATAKA vs. UMADEVI AND OTHERS**[1], the petitioner had already rendered 12 years of service, as the petitioner joined his service on 10.01.1994 and the judgment of the Apex Court in the case of UMADEVI, was rendered on 10.04.2006 which is close to 12 years and 3 months after the order. The learned counsel submits that in the contempt, what the petitioner received, was arrears of salary, but was never giving up the right of claim for regularization, as the petitioner had retired and was condemned by penury. Therefore, a hungry stomach, received salary, as means to survive would not mean that the claim for regularization had been given up.

5. *Per contra*, learned HCGP would submit that the petitioner does not fit into the conditions stipulated in the case of UMADEVI and therefore, the plea of regularization must not be considered. In the contempt, the petitioner has accepted the arrears of salary without demur. Therefore, the claim for regularization is deemed to have been given up and she would

[1] (2006) 4 SCC 1

further contend that the procedure for appointment was not followed at the time when the petitioner was appointed. Therefore, the claim of the petitioner should not be considered.

5.1. Learned counsel Sri.Vishwanath Hegde appearing for the 4th respondent would admit the fact that the petitioner was working against the vacant post and has continued to work from 1994 till the date he attained the age of superannuation on 31.12.2015 and would leave the decision to the hands of the Court as they have recommended the case of the petitioner for regularization during his service itself.

6. I have given my anxious consideration to the submissions made by the respective learned counsel appearing for the parties and have perused the material on record.

7. The afore-narrated facts and dates link in the chain of events, are all a matter of record.

8. The petitioner pursuant to a resolution of the Gram Panchayat is appointed as an Attender cum Bill Collector on 10.01.1994. The resolution reads as follows:

"“ಸಾರ್ವಜನಿಕರಲ್ಲಿ ವಿನಂತಿ

ಮಾನ್ಯರೇ,

ಸರಕಾರದ ಆದೇಶದ ಮೇರೆಗೆ ಗ್ರಾಮ ಪಂಚಾಯಿತರಲ್ಲಿಯೂ ವಾಸ್ತವ್ಯ ಮನೆಗಳ ಹಾಗೂ ಇತರೆ ಕಟ್ಟಡಗಳಾದ ಕೊಟ್ಟಿಗೆ, ಕಾರ್‌ಸೆಡ್‌ಗಳ ಕರ ಪರಿಷ್ಕರಿಸಬೇಕಾಗಿದ್ದು, ಕಾರಣ ಈ ಮೇಲಿನವುಗಳ ಅಳತೆ, ವರ್ಣನೆ ಅಲ್ಲದೇ ಬೀದಿ ದೀಪ, ಕುಡಿಯುವ ನೀರಿನ ಸೌಲತ್ತುಗಳ ಮಾಹಿತಿಗಳನ್ನು ನಿಗದಿತ ವೇಳೆಯಲ್ಲಿ ಸಂಬಂಧಪಟ್ಟವರಿಗೆ ಒಪ್ಪಿಸಬೇಕಾಗಿದ್ದು ನಮ್ಮ ಗ್ರಾಮ ಪಂಚಾಯತರಲ್ಲಿ ಕಾರ್ಯದರ್ಶಿಯವರನ್ನು ಹೊರತು ಪಡಿಸಿ ಬೇರೆ ಸಿಬ್ಬಂದಿಗಳು ಇಲ್ಲದ ಕಾರಣ ಶ್ರೀ ರಮೇಶ ವೆಂಕಟ್ರಮಣ ಹೆಗಡೆಯವರನ್ನು ತಾತ್ಪೂರ್ತಿಕವಾಗಿ ನಿಯೋಜಿಸಿಕೊಳ್ಳಲಾಗಿದೆ. ದಯಮಾಡಿ ಸದರಿಯವರಿಗೆ ಈ ಮೇಲಿನ ಮಾಹಿತಿ ನೀಡಿ ಅವಶ್ಯಕ ಪುಸ್ತಕದಲ್ಲಿ ತಮ್ಮ ರುಜು ನೀಡಬೇಕಾಗಿ ವಿನಂತಿಸಿದೆ.

ಶ್ರೀಮತಿ ವೆಂ ಮೊಗೇರ	ಎನ್.ಆರ್. ಹೆಚ್	
ಅಧ್ಯಕ್ಷರು	ಉಪಾಧಕ್ಷರು	ಕಾರ್ಯದರ್ಶಿ
ಗ್ರಾಮ ಪಂಚಾಯತ್, ಕುಳುವೆ	ಗ್ರಾಮ ಪಂಚಾಯತ್, ಕುಳುವೆ	ಗ್ರಾಮ ಪಂಚಾಯತ್, ಕುಳುವೆ
	ತಾ: ಶಿರಸಿ	

ಮಂಜುನಾಥ, ಸಣ್ಣೇಗೌಡ, ಸದಸ್ಯರು
ವಾಸಂತಿ, ಕೃಷ್ಣಾನಂದ ನಾಯ್ಕ
ಮಂಜುನಾಥ, ವೆಂಭಟ್ಟ
ಪಾರ್ವತಿ, ಸುರೇಶ ಮೊಗೇರ ಪಾರ್ವತಿ
ಹನ್ಮಂತ, ಮೈಲ್ಯಾನಾಯ್ಕ.

1. ಶ್ರೀ ಗಜಾನನ ವೆಂಕಟ್ರಮಣ ಜೋಶಿ

2. ಶ್ರೀ ಗಣಪತಿ ಮಂಜುನಾಥ ಜೋಶಿ

3. ಶ್ರೀಮತಿ ಸುಶೀಲಾ. ರಾಮಚಂದ್ರ ಹೆಗಡೆ

4. ರಾಮಚಂದ್ರ ಗಣಪಯ್ಯ ಹೆಗಡೆ

5. ಧನಂಜಯ ರಾಮಚಂದ್ರ ಹೆಗಡೆ ಕಾಗೇರಿ,

6. ವೆಂಕಟ್ರಮಣ ಸೀತಾರಾಮಹೆಗಡೆ

7. ವೆಂಕಟ್ರಮಣ ಪರಮೇಶ್ವರ ಹೆಗಡೆ

8. ವಿಶ್ವ ನಾಥ ಮಾಬ್ಲೇಶ್ವರ ಹೆಗಡೆ ನೇಗಾರ

9. ರಮೇಶ ದೇವರು ಹೆಗಡೆ ನೇಗಾರ

10. ಪ್ರಭಾಕರ ರಾಮನಾಯ್ಕ

11. ಸುಬ್ರಾಯ ಪರಮೇಶ್ವರ ಹೆಗಡೆ."

Pursuant to the same, the petitioner has been working in the Gram Panchayat as an Attender cum Bill Collector. The chart of the person i.e., petitioner working as Attender cum bill collector, is extracted as follows:

ಗ್ರಾಮ ಪಂಚಾಯತ ಕುಳವೆ

ತಾಲ್ಲೂಕ : ಶಿರಸಿ (ಉ.ಕ)

ನಮೂನೆ - 3

ಗ್ರಾಮ ಪಂಚಾಯತಗಳಲ್ಲಿ ಜಿಲ್ಲಾಪಂಚಾಯತಿಗಳ ಪೂರ್ವಾನುಮೋದನೆ ಪಡೆಯದೆ ಕಾರ್ಯ ನಿರ್ವಹಿಸುತ್ತಿರುವ ನೌಕರರಿಗಳ ವಿವರ

ದಿನಾಂಕ : 10/01/1994 ರಿಂದ 31/01/2014)

ಕ್ರಸ.	ಜಿಲ್ಲೆಯ ಹೆಸರು	ತಾಲ್ಲೂಕಿನ ಹೆಸರು	ಗ್ರಾ.ಪಂ ಹೆಸರು	ಗ್ರಾಮ ಪಂಚಾಯತಗಳಲ್ಲಿ ಪೂರ್ವಾನುಮೋದನೆ ಇಲ್ಲದೆ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿರುವ ನೌಕರರ ಹೆಸರು					ಷರಾ
				ಬಿಲ್ ಕಲೆಕ್ಟರ್	ಕ್ಲರ್ಕ್	ಮಾಟರ್ಮನ್/ಪಂಪ ಆಪರೇಟರ್ ಕೋ ಮೆಕಾನಿಕ	ಜವಾನ್/ಅಟೆಂಡರ್	ಸ್ವಚ್ಛತಾದೂತರು	
1	2	3	4	5	6	7	8	9	10
1	ಉತ್ತರ ಕನ್ನಡ	ಶಿರಸಿ	ಕುಳವೆ			ಚಿದಾನಂದ ವಿಠಲ ನಾಯ್ಕ.	ರಮೇಶ ವೆಂಕಟ್ರಮಣ ಹೆಗಡೆ		2

Subsequent resolutions have been passed by the Gram Panchayat increasing the salary of the petitioner from time to time. They are all a matter of record which need not be quoted except the fact that, that would evidence the continuous working of the petitioner in the Gram Panchayat. The Gram Panchayat

which came under the Taluk Panchayat, Sirsi, was communicated to by the Taluk Panchayat directing appropriate steps to be taken to regularize the service of the petitioner. The communication comes about on 16.05.2013. The said communication reads as follows:

"ಕ್ರ.ಸಂ.ತಾ.ಪಂ.ಶಿ/ಗ್ರಾಪಂ./ ರ.ವೆಂ.ಹೆ/2013-14 ತಾಲೂಕಾ ಪಂಚಾಯತ ಕಾರ್ಯಲಯ

ಶಿರಸಿ, ದಿನಾಂಕ: 16-05-2013

ರಿಗೆ,
ಪಂಚಾಯತ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ
ಗ್ರಾಮ ಪಂಚಾಯತ ಕುಳವೆ
ತಾ ll ಶಿರಸಿ

ವಿಷಯ : ಶ್ರೀ ರಮೇಶ ವೆಂ. ಹೆಗಡೆ ಇವರನ್ನು ಗ್ರಾಮ ಪಂಚಾಯತ ನೌಕರರನ್ನಾಗಿ ಖಾಯಂಗೊಳಿಸುವ ಬಗ್ಗೆ ಹಾಗೂ ಸರಕಾರದಿಂದ ಸವಲತ್ತು ಸಿಗುವ ಬಗ್ಗೆ .

ಉಲ್ಲೇಖ: - 1. ಜಿಲ್ಲಾಪಂಚಾಯತ ಉತ್ತರಕನ್ನಡ ಕಾರವಾರ ರವರ ಪತ್ರ ಸಂಖ್ಯೆ ಜಿಪಂಅ/ ಗ್ರಾಪಂ/ ಇತರೆ 13-14 ದಿನಾಂಕ: 04-05-2013.
2. ಈ ಕಛೇರಿ ಪತ್ರ ದಿನಾಂಕ: 01-04-2013.

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ಈ ಮೇಲಿನ ವಿಷಯದ ಕುರಿತು ಶ್ರೀ ರಮೇಶ ವೆಂಕಟರಮಣ ಹೆಗಡೆ ಇವರು ಲೋಕಾಯುಕ್ತ ಕಾರವಾರರವರಿಗೆ ಸಲ್ಲಿಸಿದ ಮನವಿಯಲ್ಲಿ ತಮ್ಮನ್ನು ಗ್ರಾಮ ಪಂಚಾಯತ ನೌಕರನ್ನಾಗಿ ಖಾಯಂಗೊಳಿಸಲು & ಸರಕಾರದಿಂದ ಸಿಗುವ ಸವಲತ್ತನ್ನು ಒದಗಿಸುವಂತೆ ಕೋರಿಕೊಂಡಿರುವುದರಿಂದ ಉಲ್ಲೇಖ 1ರಲ್ಲಿ ಜಿಲ್ಲಾಪಂಚಾಯತ ಉತ್ತರಕನ್ನಡ, ಕಾರವಾರ ರವರು ಸರಕಾರದ ಆದೇಶ ಸಂ.ಗ್ರಾ.ಅ.ಪ **67/** ಗ್ರಾಪಂ**/06** ದಿನಾಂಕ: 04-01-2008 ರಂತೆ ನಿಯಮಾನುಸಾರ ಅಗತ್ಯ ಕ್ರಮಗೊಳ್ಳಲು ಸೂಚಿಸಿರುತ್ತಾರೆ. ಉಲ್ಲೇಖ (2)ರಲ್ಲಿ ಈ ಬಗ್ಗೆ ಸೂಕ್ತ ಕ್ರಮ ಜರುಗಿಸಲು ತಮಗೆ ತಿಳಿಸಲಾಗಿತ್ತು. ಕಾರಣ ಈ ಬಗ್ಗೆ ಸೂಕ್ತ ಕ್ರಮ ಕೈಗೊಂಡು ವಿಳಂಬಕ್ಕೆ ಆಸ್ಪದ ನೀಡದೇ ವರದಿ ಸಲ್ಲಿಸಲು ಸೂಚಿಸಿದೆ.

Sd/-
ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಧಿಕಾರಿ

ತಾಲೂಕಾ ಪಂಚಾಯತ ಶಿರಸಿ.”

ಪ್ರತಿಯನ್ನು ಗೌರವದೊಂದಿಗೆ,

1. ಮಾನ್ಯ ಮಮುಖ್ಯ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಧಿಕಾರಿಗಳು, ಜಿಲ್ಲಾ ಪಂಚಾಯತ ಉತ್ತರಕನ್ನಡ ಕಾರವಾರರವರಿಗೆ ಮಾಹಿತಿಗಾಗಿ,

2. ಪೋಲಿಸ್ ಅಧೀಕ್ಷಕರು, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾರವಾರರವರಿಗೆ ಮಾಹಿತಿಗಾಗಿ,

3. ಶ್ರೀ ರಮೇಶ ವೆ. ಹೆಗಡೆ ಸಾ।ಕುಳವೆ ಸೊಸೈಟಿ ಕಾಲೋನಿ ಕುಳವೆ, ತಾ।ಶಿರಸಿ ಮಾಹಿತಿಗಾಗಿ

(4) ಕಚೇರಿ ಕಡತ

Sd/-
ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಧಿಕಾರಿ
ತಾಲೂಕಾ ಪಂಚಾಯತ ಶಿರಸಿ”

The documents were directed to be sent for the said purpose of regularization. This is replied to, by the Gram Panchayat and the communication reads as follows:

"“ಗ್ರಾಮ ಪಂಚಾಯತ ಕುಳವೆ
ತಾಲೂಕ: ಶಿರಸಿ ಜಿಲ್ಲಾ :ಉತ್ತರ ಕನ್ನಡ

ಗ್ರಾಪಂಕು /2013-14/15 ದಿನಾಂಕ:: 27/05/2013

ಮಾನ್ಯ ಕಾರ್ಯ ನಿರ್ವಾಹಕ ಅಧಿಕಾರಿಗಳು
ತಾಲ್ಲೂಕ ಪಂಚಾಯ ಶಿರಸಿ
ಇವರ ಬಳಿಗೆ

ಮಾನ್ಯರೆ

ವಿಷಯ: ಶ್ರೀ ರಮೇಶ ವೆಂಕಟ್ರಮಣ ಹೆಗಡೆ ಇವರನ್ನು ಗ್ರಾಮ ಪಂಚಾಯತ ನೌಕರನಾಗಿ ಖಾಯಂ ಗೊಳಿಸಿ ಸರಕಾರದ ಸವಲತ್ತು ಒದಗಿಸುವ ಕುರಿತು

ಉಲ್ಲೇಖ : 1) ಜಿಲ್ಲಾ ಪಂಚಾಯತ ಕಾರ್ಯಾಲಯ ಉತ್ತರ ಕನ್ನಡ
ದಿನಾಂಕ 04/05/2013

2) ಶ್ರೀ ರಮೇಶ ವೆಂಕಟ್ರಮಣ ಹೆಗಡೆ ಇವರ ಅರ್ಜಿ ದಿನಾಂಕ--

ಅರ್ಜಿದಾರ ಶ್ರೀ ರಮೇಶ ವೆಂಕಟ್ರಮಣ ಹೆಗಡೆ ಇವರನ್ನು ಗ್ರಾಮ ಪಂಚಾಯತದಲ್ಲಿ ಪಂಚಾಯತ ಸಭೆ ದಿನಾಂಕ 22/09/2006 ರ ನಡವಳಿಕೆ ನಂ : 4 ರಲ್ಲಿ ನಿರ್ಣಯಿಸಿದ ಹೊರತು ಇದಕ್ಕೆ ಪೂರ್ವದಲ್ಲಿ ನೇಮೂಣಿಕೆ ಮಾಡಿಕೊಂಡಿದ್ದು ಇರುವುದಿಲ್ಲ. ಪಂಚಾಯತದ ಹಣ ಬಟವಡೆ ಮಾಡಿದ ದಾಖಲಾತಿಯನ್ನು ಪರಿಶೀಲನೆಯಿಂದ ಕಂಡು ಬಂದ ಪ್ರಕಾರ ಸನ್ 2005-06 ರಿಂದ ಪ್ರತಿ ತಿಂಗಳು ಮಾಸಿಕ ವೇತನ ರೂ 500=00 ರಂತೆ ಸಾದಿಲ್ವಾರ ಬಿಲ್ಲ ಮೊಚರ್ ನಲ್ಲಿ ಬಟವಡೆ ಮಾಡಿದ್ದು ಇರುತ್ತದೆ. ಸದ್ರಿಯವರಿಗೆ ವಹಿಸಿದ ಕೆಲಸಗನುಗುಣವಾಗಿ ಪಂಚಾಯತ ಉತ್ಪನ್ನಗಳಿಗನುಗುಣವಾಗಿ ದಿನಾಂಕ 05/11/2006 ರಿಂದ ರೂ 800=00 ರೂಪಾಯಿಯಂತೆ ಸನ್ 2008-09 ಸಾಲಿನಲ್ಲಿ ದಿನಾಂಕ 02/05/2008 ಕ್ಕೆ 1200-ರೂಪಾಯಿಯಂತೆ ದಿನಾಂಕ 10/10/2008 ರಿಂದ ರೂ 1200-00 ರೂಪಾಯಿಯಂತೆ ವೇತನ ವಿತರಣ ರಜಿಸ್ಟರ್‌ನಲ್ಲಿ ಬಟವಡೆ ಮಾಡಿದ್ದು ಇರುತ್ತದೆ ಸನ್ 2013 ಮಾರ್ಚ ವರೆಗೆ ವಿವಿದ ಹಂತಗಳಂತೆ ಪ್ರಸ್ತುತದಲ್ಲಿ 4500=00 ರೂಪಾಯಿಗಳಂತೆ ತಿಂಗಳ ವೇತನವಾಗಿ ಬಟವಡೆ ಮಾಡಿದ್ದು ಇರುತ್ತದೆ ಸದ್ರಿಯವರ ನೇಮೂಣಿಕೆ ಕ್ರಮಬದ್ದ ವಾಗದೇ ಇರುವುದರಿಂದ ಸರಕಾರದ ಅಧಿಕೃತ ಜ್ಞಾಪನಾ ಪತ್ರ ದಿನಾಂಕ 04/01/2008 ರಂತೆ ಜಿಲ್ಲಾ ಪಂಚಾಯತಕ್ಕೆ ಅನುಮೊದನಗೆ ಬೇಕಾಗಿರುವ ವಿದ್ಯಾರ್ಹತೆ ದಾಖಲಾತಿ ವಯಸ್ಸಿನ ದಾಖಲಾತಿ ಮತ್ತು ಅರ್ಹತೆಗೆ ತಕ್ಕಂತೆ ಮಂಜೂರಿ ನೀಡಬೇಕಾದ ಹುದ್ದೆ ಸ್ಪಷ್ಟವಾಗಿ ನಮೂದು ಇಲ್ಲದೆ ಇರುವುದು ಮತ್ತು ಅರ್ಜಿದಾರರಿಗೆ ದಾಖಲಾತಿ ಪೂರೈಸಲು ತಿಳಿಸಿದಾಗಲೂ ಈ ವರೆಗೆ ದಾಖಲಾತಿಗಳನ್ನು ಪಂಚಾಯತಕ್ಕೆ ಪೂರೈಕೆ ಮಾಡದೇ ಇರುವುದರಿಂದ ಗ್ರಾಮ ಪಂಚಾಯತದಿಂದ ಜಿಲ್ಲಾ ಪಂಚಾಯತಕ್ಕೆ ಅನುಮೋದನೆಗೆ ಕಳುಹಿಸಲು ವಿಳಂಬವಾಗಿದ್ದು ಇರುತ್ತದೆ. ಗ್ರಾಮ ಪಂಚಾಯತವು ಸದ್ರಿ ನೌಕರರ ಗೌರವಧನವನ್ನು ಕಾಲ ಕಾಲಕ್ಕೆ ತಕ್ಕಂತೆ ಹೆಚ್ಚಿಸಿ ಬಟವಡೆ ಮಾಡಿದ್ದು ಇರುತ್ತದೆ.

ಗ್ರಾಮ ಪಂಚಾಯತ ಸಿಬ್ಬಂದಿಗಳನ್ನಾಗಿ ನೇಮೂಣಿಕೆಯನ್ನು ಜಿಲ್ಲಾ ಪಂಚಾಯತ ಅನುಮೊದನೆಗೆ ಪಡೆದುಕೊಂಡು ಸರಕಾರವು ನಿಗದಿಪಡಿಸಿದ ವೇತನವನ್ನು ಬಟವಡೆ ಮಾಡಲು ಅವಕಾಶ ನೀಡಿರುವುದರಿಂದ ಶ್ರೀ ರಮೇಶ ವೆಂಕಟ್ರಮಣ ಹೆಗಡೆ ಇವರನ್ನು ಖಾಯಂ ಗೊಳಿಸಲು ಬೇಕಾಗುವ ವಯಸ್ಸಿನ ದಾಖಲಾತಿ ವಿದ್ಯಾರ್ಹತೆ ದಾಖಲಾತಿ ಮತ್ತು ಗ್ರಾಮ ಪಂಚಾಯತದಿಂದ ಸನ್ 2006 ರ ಪೂರ್ವದಲ್ಲಿ ನೇಮಕಾತಿ ಮಾಡಿಕೊಂಡಿರುವ ಆದೇಶ ಪ್ರತಿಯ ಮೂಲ ದಾಖಲಾತಿಗಳನ್ನು ಪೂರೈಸಲು ಕಾಲಾವಾಕಾಶ ನೀಡಿದ್ದು, ಸದ್ರಿ ದಾಖಲಾತಿ ಸಂಗ್ರಹಿಸಿ ಸರಕಾರದ ಆದೇಶದಂತೆ ಹುದ್ದೆಯ ಅನುಮೊದನೆಗೆ ತಮ್ಮಲ್ಲಿ ಕಳುಹಿಸಿ ಕೊಡುವಲ್ಲಿ ಗ್ರಾಮ ಪಂಚಾಯತದಿಂದ ಕ್ರಮ ಕೈಗೊಂಡಿದ್ದು ಈ ಪೂರ್ವದಲ್ಲಿ ಸದ್ರಿಯವರ ನೇಮೂಣಿಕೆ ಹಾಗು ಗೌರವಧನ ಬಟವಡೆ ವಿವರವುಳ್ಳ ಮಾಹಿತಿಯನ್ನು ತಮ್ಮಲ್ಲಿ ವಿನಂತಿ ಪೂರ್ವಕ ಒಪ್ಪಿಸಿದೆ

ತಮ್ಮ ವಿಶ್ವಾಸಿ
Sd/-
ಪಂಚಾಯತ ಅಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿ
ಗ್ರಾಮ ಪಂಚಾಯತ ಕುಳವೆ"

ಪ್ರತಿಗಳು:

1) ಮಾನ್ಯ ಮುಖ್ಯಕಾರ್ಯನಿರ್ವಾಹಕ ಅಧಿಕಾರಿಗಳು ಜಿ.ಪಂ ಉತ್ತರ ಕನ್ನಡ ಕಾರವಾರ ವಿನಯ ಪೂರ್ವಕವಾಗಿ ಒಪ್ಪಿಸಿದೆ.

2) ಮಾನ್ಯ ಪೋಲೀಸ್ ಅಧೀಕ್ಷಕರು ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾರವಾರ ಉತ್ತರ ಕನ್ನಡ

3) ಶ್ರೀ ರಮೇಶ ವೆಂಕಟ್ರಮಣ ಹೆಗಡೆ ಸಾ// ಕುಳವ ಅರ್ಜಿದಾರರಿಗೆ"

The 4th respondent-Gram Panchayat on 15.10.2014 again recommends the case of the petitioner but regularization did not come about. Therefore, the petitioner had to knock at the doors of this Court in W.P.No.112917/2014, as he was on the verge of his retirement and there was no regularization order passed. During the subsistence of the said writ petition, the petitioner retires on attaining the age of superannuation on 31.12.2015. The Coordinate Bench in terms of the order dated 19.11.2021 disposes the Writ petition by the following order:

> "Petitioner claims that though he had worked consecutively for a period of ten years as Bill Collector on daily wage, however his services are not regularized in the light of the decision of the Apex Court in the case of Secretary, State of Karnataka –vs- Umadevi and others reported in 2006 (4) SCC 1 and also a circular dated 10.5.2013 issued by respondent No.1 at Annexure-J. Hence, he submitted representations dated 27.5.2014 vide Annexures-K and K1 to the respondents. Petitioner's grievance is that the said representations have not been considered even till this day.
>
> 2. Learned counsel for the petitioner submits that the petitioner is entitled for regularization of his service as Bill Collector in the light of the decision of the Apex Court in the case of Umadevi (supra) and also the circular issued by respondent No.1 vide Annexure-J. However, respondents No.2 and 3 without any valid reason have not regularized the services of the petitioner.

3. On the other hand, learned counsel for respondents No.2 and 3 submits that the petitioner is not entitled for regularization of his services. Hence, the claim of the petitioner cannot be considered.

4. I have considered the submissions of the learned counsel for the parties.

5. Petitioner was appointed as Bill Collector on daily wage in the year 1994. He continued to serve as Bill Collector till he attained the age of superannuation on 31.12.2015 during the pendency of this writ petition. The question, whether the petitioner is entitled for regularization of his service in the light of the decision of the Apex Court in the case of Umadevi (supra) and also the circular dated 10.5.2013 requires to be considered by respondents No.2 and 3.

6. Therefore, it is expedient to dispose of the writ petition directing the respondents No.2 and 3 to consider the representations dated 27.5.2014 at Annexures-K and K1 in the light of the decision of the Apex Court in the case of Umadevi (supra) and also the circular dated 10.5.2013 issued by respondent No.1 vide Annexure-J and pass appropriate order in accordance with law within a period of two months from the date of receipt of certified copy of this order.

The prayer sought for by the petitioner at prayer-(b) does not survive since the petitioner has been paid with the arrears of salary by respondents No.2 and 3."

The Coordinate Bench disposed the petition directing consideration of the case of the petitioner for regularization in terms of the judgment of the Apex Court in the case of UMADEVI *supra* within two months from the order. No order was passed. Therefore, the petitioner had to invoke the contempt jurisdiction.

During the contempt, an order is passed granting arrears of salary but no regularization. The Division Bench hearing the contempt in CCC No.100086/2022, disposed the contempt petition by the following order:

> "This contempt is founded on the allegation as to disobedience of the order dated 19.11.2021, passed by a learned Single Judge of this Court in complainant's Writ Petition No.112917/2014 (S-REG).
>
> After service of notice, the accused No.2 having entered appearance has filed a memo dated 10.06.2022 along with copies of records, which evidence that the complainant has received a sum of Rs.1,71,258/- (Rupees One lakh seventy one thousand two hundred and fifty eight) only and a memo of calculation is also produced.
>
> In view of the above, there is substantial compliance of the order in question and therefore, these proceedings being liable to be and accordingly are dropped, reserving liberty to the complainant to workout his other remedies elsewhere, in accordance with law. All contentions in this regard are reserved.
>
> No costs."

Substantial compliance was noticed, contempt was dropped, liberty was reserved to the petitioner to work out his other remedies, elsewhere, in accordance with law. Therefore, the petitioner prefers the subject petition seeking the prayer for regularization from the date on which he was appointed. The issue now would be whether the petitioner is entitled to his claim

for regularization on him rendering 21 years of continuous service and notwithstanding his retirement during the subsistence of his claim for regularization. Therefore, it becomes necessary to notice the judgment of the Apex Court in the case of UMADEVI *supra* and its aftermath, as several hues and forms of regularization, are projected by the learned counsel Ms.Vaibhavi Inamdar in her eloquent submissions.

9. The Apex Court in its judgment in the case of UMADEVI supra, considers appointments that are illegal, irregular and persons who have been working for the last 10 years as on the date of the judgment i.e., on 10.04.2006, all can be considered for regularization. However, it was noticed that an appropriate scheme could be framed even otherwise. The Apex Court has held as follows:

> **"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V. Narayanappa* [(1967) 1 SCR 128 : AIR 1967 SC 1071] , *R.N. Nanjundappa* [(1972) 1 SCC 409 : (1972) 2 SCR 799] and *B.N. Nagarajan* [(1979) 4 SCC 507 : 1980 SCC (L&S) 4 : (1979) 3 SCR 937] 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 regularisation 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 abovereferred 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.

54. It is also clarified that those decisions which run counter to the principle settled in this decision, or in which directions running counter to what we have held herein, will stand denuded of their status as precedents.

55. In cases relating to service in the Commercial Taxes Department, the High Court has directed that those engaged on daily wages, be paid wages equal to the salary and allowances that are being paid to the regular employees of their cadre in government service, with effect from the dates from which they were respectively appointed. The objection taken was to the direction for payment from the dates of engagement. We find that the High Court had clearly gone wrong in directing that these employees be paid salary equal to the salary and allowances that are being paid to the regular employees of their cadre in government service, with effect from the dates from which they were respectively engaged or appointed. It was not open to the High Court to impose such an obligation on the State when the very question

> before the High Court in the case was whether these employees were entitled to have equal pay for equal work so called and were entitled to any other benefit. They had also been engaged in the teeth of directions not to do so. We are, therefore, of the view that, at best, the Division Bench of the High Court should have directed that wages equal to the salary that is being paid to regular employees be paid to these daily-wage employees with effect from the date of its judgment. Hence, that part of the direction of the Division Bench is modified and it is directed that these daily-wage earners be paid wages equal to the salary at the lowest grade of employees of their cadre in the Commercial Taxes Department in government service, from the date of the judgment of the Division Bench of the High Court. Since, they are only daily-wage earners, there would be no question of other allowances being paid to them. In view of our conclusion, that the courts are not expected to issue directions for making such persons permanent in service, we set aside that part of the direction of the High Court directing the Government to consider their cases for regularisation. We also notice that the High Court has not adverted to the aspect as to whether it was regularisation or it was giving permanency that was being directed by the High Court. In such a situation, the direction in that regard will stand deleted and the appeals filed by the State would stand allowed to that extent. If sanctioned posts are vacant (they are said to be vacant) the State will take immediate steps for filling those posts by a regular process of selection. But when regular recruitment is undertaken, the respondents in CAs Nos. 3595-612 and those in the Commercial Taxes Department similarly situated, will be allowed to compete, waiving the age restriction imposed for the recruitment and giving some weightage for their having been engaged for work in the Department for a significant period of time. That would be the extent of the exercise of power by this Court under Article 142 of the Constitution to do justice to them."

10. After the said judgment of the Apex Court in UMADEVI, the judicial thought process has undergone a change

owing to the fact of exploitation of human labour at the hands of the State projecting the judgment of the Apex Court in the case of UMADEVI.

11. The Apex Court in the case of **NARENDRA KUMAR TIWARI v. STATE OF JHARKHAND**[2], holds as follows:

> "7. The purpose and intent of the decision in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] was therefore twofold, namely, to prevent irregular or illegal appointments in the future and secondly, to confer a benefit on those who had been irregularly appointed in the past. The fact that the State of Jharkhand continued with the irregular appointments for almost a decade after the decision in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] is a clear indication that it believes that it was all right to continue with irregular appointments, and whenever required, terminate the services of the irregularly appointed employees on the ground that they were irregularly appointed. This is nothing but a form of exploitation of the employees by not giving them the benefits of regularisation and by placing the sword of Damocles over their head. This is precisely what Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1: 2006 SCC (L&S) 753] and Kesari [State of Karnataka v. M.L. Kesari, (2010) 9 SCC 247 : (2010) 2 SCC (L&S) 826] sought to avoid.
>
> 8. If a strict and literal interpretation, forgetting the spirit of the decision of the Constitution Bench in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753], is to be taken into consideration then no irregularly appointed employee of the State of Jharkhand could ever be

[2] 2018) 8 SCC 238

regularised since that State came into existence only on 15-11-2000 and the cut-off date was fixed as 10-4-2006. **In other words, in this manner the pernicious practice of indefinitely continuing irregularly appointed employees would be perpetuated contrary to the intent of the Constitution Bench.**

9. The High Court as well as the State of Jharkhand ought to have considered the entire issue in a contextual perspective and not only from the point of view of the interest of the State, financial or otherwise - the interest of the employees is also required to be kept in mind. What has eventually been achieved by the State of Jharkhand is to short circuit the process of regular appointments and instead make appointments on an irregular basis. This is hardly good governance.

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

11. The impugned judgment and order [Anil Kumar Sinha v. State of Jharkhand, 2016 SCC OnLine Jhar 2904] passed by the High Court is set aside in view of our conclusions. The State should take a decision within four months from today on regularisation of the status of the appellants. The appeals are accordingly disposed of."

(Emphasis supplied)

12. Later, the Apex Court in the case of **SHEO NARAIN NAGAR v. STATE OF U.P**.[3], holds as follows:

[3] (2018) 13 SCC 432

"6. The learned counsel appearing on behalf of the respondent has relied upon para 44 of the decision in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753], so as to contend that it was not the case of irregular appointment but of illegal appointment; there was no post available on which the services of the appellants could have been regularised and appointment were in contravention of the reservation policy also; thus, termination order was rightly issued and, in no case, the appellants were entitled for regularisation of their services.

7. When we consider the prevailing scenario, it is painful to note that the decision in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] has not been properly understood and rather wrongly applied by various State Governments. We have called for the data in the instant case to ensure as to how many employees were working on contract basis or ad hoc basis or daily-wage basis in different State departments. We can take judicial notice that widely aforesaid practice is being continued. Though this Court has emphasised that incumbents should be appointed on regular basis as per rules but new devise of making appointment on contract basis has been adopted, employment is offered on daily-wage basis, etc. in exploitative forms. This situation was not envisaged by Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753]. The prime intendment of the decision was that the employment process should be by fair means and not by back door entry and in the available pay scale. That spirit of the Umadevi (3) [State of Karnataka v. Umadevi(3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] has been ignored and conveniently overlooked by various State Governments/authorities. We regretfully make the observation that Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] has not been implemented in its true spirit and has not been followed in its pith and substance. **It is being used only as a tool for not regularising the services of incumbents. They are being continued in service without payment of due salary for which they are entitled on the basis of Articles 14, 16 read with Article 34(1)(d) of the Constitution of India as**

if they have no constitutional protection as envisaged in D.S. Nakara v. Union of India [D.S. Nakara v. Union of India, (1983) 1 SCC 305 : 1983 SCC (L&S) 145 : AIR 1983 SC 130], **from cradle to grave. In heydays of life they are serving on exploitative terms with no guarantee of livelihood to be continued and in old age they are going to be destituted, there being no provision for pension, retiral benefits, etc. There is clear contravention of constitutional provisions and aspiration of downtrodden class. They do have equal rights and to make them equals they require protection and cannot be dealt with arbitrarily. The kind of treatment meted out is not only bad but equally unconstitutional and is denial of rights. We have to strike a balance to really implement the ideology of** Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753]. **Thus, the time has come to stop the situation where** Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] **can be permitted to be flouted, whereas, this Court has interdicted such employment way back in the year 2006.** The employment cannot be on exploitative terms, whereas Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] laid down that there should not be back door entry and every post should be filled by regular employment, but a new device has been adopted for making appointment on payment of paltry system on contract/ad hoc basis or otherwise. This kind of action is not permissible when we consider the pith and substance of true spirit in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753].

8. Coming to the facts of the instant case, there was a direction issued way back in the year 1999, to consider the regularisation of the appellants. However, regularisation was not done. The respondents chose to give minimum of the pay scale, which was available to the regular employees, way back in the year 2000 and by passing an order, the appellants were also conferred temporary status in the year 2006, with retrospective effect on 2-10-2002. As the respondents have themselves chosen to confer a temporary status to the employees, as

such there was requirement at work and posts were also available at the particular point of time when order was passed. Thus, the submission raised by the learned counsel for the respondent that posts were not available, is belied by their own action. Obviously, the order was passed considering the long period of services rendered by the appellants, which were taken on exploitative terms.

9. The High Court dismissed the writ application relying on the decision in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1: 2006 SCC (L&S) 753]. **But the appellants were employed basically in the year 1993; they had rendered service for three years, when they were offered the service on contract basis; it was not the case of back door entry; and there were no Rules in place for offering such kind of appointment. Thus, the appointment could not be said to be illegal and in contravention of Rules, as there were no such Rules available at the relevant point of time, when their temporary status was conferred w.e.f. 2-10-2002. The appellants were required to be appointed on regular basis as a one-time measure, as laid down in para 53 of** Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753]. **Since the appellants had completed 10 years of service and temporary status had been given by the respondents with retrospective effect from 2-10-2002, we direct that the services of the appellants be regularised from the said date i.e. 2.10.2002, consequential benefits and the arrears of pay also to be paid to the appellants within a period of three months from today."**

(Emphasis supplied)

13. The Apex Court in the case of **CHANDER MOHAN NEGI v. STATE OF H.P.[4],** holds as follows:

[4] (2020) 5 SCC 732

"11. At the outset, it is to be noted that the schemes in question were notified in the years 2001 and 2003 under which appointments were made with regard to Primary Assistant Teachers and Teachers in other categories. At the relevant point of time, nobody has questioned either the schemes or the appointments. It is the specific case of the respondent State that such appointments have not affected the writ petitioners and the Department was not in a position to leave the schools, Teachers deficient for long since it would have affected the studies of the students very badly. Therefore, it was the case of the State that Teachers had been appointed under various schemes at that point of time and such appointments have been made up to the year 2007 and have no impact on the appellants since they have completed their two-year JBT training in the year 2011. As is evident from the order [Pankaj Kumar v. State of H.P., 2014 SCC OnLine HP 5944] under appeal passed by the Division Bench of the High Court, the appellant-writ petitioners have not even chosen to file rejoinder and the stand taken by the State thus has remained uncontroverted. Further, it is also to be noted that when such appointments were made during the years 2001 and 2003 the writ petitions came to be filed in the years 2012 and 2013. As the writ petitioners have claimed interest for their appointment, the Division Bench of the High Court has rightly held [Pankaj Kumar v. State of H.P., 2014 SCC OnLine HP 5944] that such petitions cannot be considered as the public interest litigation. Such a writ petition which was filed by the petitioners who came to be qualified only in the year 2011 are not entitled for any relief on the ground of unexplained laches and inordinate delay of about more than 10 years in approaching the court for questioning the appointments. Though relief was sought against the State to deny the benefit of regularisation to the appointed Teachers, they were not even impleaded as party respondents. An association was impleaded as third respondent but without furnishing any material to show that at least majority of appointees are members of such association. So far as Primary Assistant Teachers Scheme of 2003, which was the subject-matter of letters patent appeal arising out of CWP No. 3303 of 2012-A filed by Chander Mohan Negi and others, is concerned, the appellants in Civil Appeal No. 2813 of 2017 except Appellants 1, 2 and

4 have withdrawn [Chander Mohan Negi v. State of H.P., 2020 SCC OnLine SC 459] the appeal and Appellants 1 and 4 are already appointed as JBTs. Insofar as the only appellant viz. Appellant 2, Rajiv Chauhan is concerned, it is stated that he is qualified and there are vacant posts and he can be considered if he applies to any of the existing vacancies. So far as the Primary Assistant Teacher Scheme is concerned, same was notified as early as on 27-8-2003. As is evident from the Scheme itself, the object of the Scheme appears to be to compulsorily enrol children in schools for elementary and primary education in the remote areas to achieve the goals as set by the Government while enacting the Himachal Pradesh Compulsory Primary Education Act, 1997 with a view to achieve the target of 100% enrolment to children. As per the Scheme, the eligibility was 10+2 from a recognised Board/University and the candidates with higher qualifications were also eligible and candidates with professional qualifications were to be preferred. As per the regular Recruitment Rules the requisite qualification for the post of JBT Teacher during the relevant time was 10+2 with 50% marks and JBT certificate. As submitted by the learned Senior Counsel appearing for the State that initially though 3500 odd Teachers were appointed, as of now there are only a total of 3294 Teachers working in this category and out of this about 1866 had the qualification of 10+2 with more than 50% marks at the relevant point of engagement. Out of the balance, 1015 had 10+2 with less than 50% marks, but they had higher qualification such as BA/MA/M Sc or B Ed, etc. Further, it is also brought to our notice that out of all the candidates, 3294 candidates who are presently working have acquired the professional qualification of diploma in elementary education or have undergone Professional Development Programme for Elementary Teachers. In that view of the matter, we are of the view that when the appointees appointed under the scheme have completed more than almost 15 years of service now and also have acquired the professional qualifications, they cannot be denied regularisation at this point of time. As the appointments were made as per the schemes notified by the Government such appointments cannot be treated as illegal, if at all they can be considered irregular. When it is the plea of the State that in view of the hard topography/tribal areas in the State,

large number of vacancies were there even in single teacher schools and to achieve the object of the Himachal Pradesh Primary Education Act, 1997 such steps were taken, there is no reason to disbelieve the same, more so, in absence of any affidavit by way of rejoinder by the writ petitioners before the High Court controverting the allegations in the reply filed on behalf of the State.

12. Even with regard to the Para Teachers Policy under which various category of Teachers were appointed in the year 2003 pursuant to policy notified on 17-9-2003 it is clear from the record placed before this Court that all the persons who were recruited as Para Teachers were fully qualified as per the Recruitment and Promotion Rules i.e. the Himachal Pradesh Education Department Class III (School and Inspection Cadre) Service Rules, 1973. In view of the stand of the State that such policy was necessitated due to large number of vacant posts which have arisen year after year and which could not be filled since the State Selection Subordinate Board, Hamirpur, which was responsible for the selection of Teachers had come under a cloud and the selection process had come to a halt, such appointments cannot be rendered as illegal. Such aspect is also evident from the policy itself. Even in other category of the Grant-in-Aid to Parent Teacher Association Rules, all Teachers appointed under the Scheme fulfil the educational qualifications prescribed in the Rules. For such kind of Teachers, the Cabinet has taken decision to take over the Teachers on contract basis after completion of eight years of service which period was later reduced to seven years. It is also brought to our notice during the course of arguments that out of the total 6799 Teachers, 5017 Teachers were already taken over on contract basis by the State Government and only 1782 could not be taken over in view of the interim orders passed by this Court.

13. It is true that in the initial schemes notified by the Government, there was a condition that such appointees should not seek regularisation/ absorption but at the same time for no fault of them, they cannot be denied regularisation/absorption. It is in view of the requirement of the State, their services were extended from time to time and now all the

appointees have completed more than 15 years of service. For majority of the appointed Teachers under the various schemes, benefit was already extended and some left over candidates were denied on account of interim orders passed by this Court. With regard to Primary Assistant Teachers, it is stated that all the candidates have completed Special Teacher Training Qualifying Condensed Course and also had obtained special JBT certificate after 5 years' continuous service in terms of the Himachal Pradesh Education Code, 1985. The judgments relied on by learned counsel Shri Prashant Bhushan also would not render any assistance to the case of the appellants herein for the reason that there was unexplained and inordinate delay on the part of the appellants in approaching the High Court and further having regard to explanation offered by the State about the need of framing such policies to meet the immediate requirement to fill up single teacher schools which were vacant for a very long time, having regard to topographical conditions, which is not even controverted by way of any rejoinder before the High Court. In such view of the matter, taking the totality of peculiar circumstances of these cases, we are of the view that the view expressed by this Court in the judgments relied on cannot be applied to the facts of the case on hand. All the appointed candidates are working for the meagre salaries pursuant to schemes notified by the Government. Except the vague submission that such schemes were framed only to make backdoor entries, there is no material placed on record to buttress such submission. Further it is also to be noted that though such schemes were notified as early as in 2003, nobody has questioned such policies and appointments up to 2012 and 2013. The writ petition i.e. CWP No. 3303 of 2012-A was filed in the year 2012 without even impleading the appointees as party respondents. In the writ petition, there was no rejoinder filed by the writ petitioners disputing the averments of the State as stated in the reply-affidavit. Having regard to the nature of such appointments, appointments made as per policies cannot be termed as illegal. Having

> **regard to material placed before this Court and having regard to reasons recorded in the impugned order** [Pankaj Kumar v. State of H.P., 2014 SCC OnLine HP 5944] **by the High Court, we are of the view that no case is made out to interfere with the impugned judgment** [Pankaj Kumar v. State of H.P., 2014 SCC OnLine HP 5944] **of the High Court."**
>
> (Emphasis supplied)

14. Earlier to the judgment rendered by the Apex Court in the afore-quoted judgment, the Apex Court in the case of **AMARENDRA KUMAR MOHAPATRA v. STATE OF ORISSA**[5], had held as follows:

> "42. The decision in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753], as noticed earlier, permitted regularisation of regular appointments and not illegal appointments. Question, however, is whether the appointments in the instant case could be described as illegal and if they were not, whether the State could be directed to regularise the services of the degree-holder Junior Engineers who have worked as ad hoc Assistant Engineers for such a long period, not only on the analogy of the legislative enactment for regularisation but also on the principle underlying para 53 of the decision in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753].
>
> **43. As to what would constitute an irregular appointment is no longer res integra. The decision of this Court in** State of Karnataka v. M.L. Kesari [(2010) 9 SCC 247 : (2010) 2 SCC (L&S) 826], **has examined that question and explained the principle regarding regularisation as enunciated in** Umadevi (3) case [State of

[5] (2014) 4 SCC 583

Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753]. **The decision in that case summed up the following three essentials for regularisation : (1) the employees have worked for ten years or more, (2) that they have so worked in a duly sanctioned post without the benefit or protection of the interim order of any court or tribunal, and (3) they should have possessed the minimum qualification stipulated for the appointment. Subject to these three requirements being satisfied, even if the appointment process did not involve open competitive selection, the appointment would be treated irregular and not illegal and thereby qualify for regularisation. Para 7 in this regard is apposite and may be extracted at this stage:** (M.L. Kesari case **[(2010) 9 SCC 247 : (2010) 2 SCC (L&S) 826], SCC p. 250)**

> "7. It is evident from the above that there is an exception to the general principles against 'regularisation' enunciated in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753], if the following conditions are fulfilled:
>
> (i) The employee concerned should have worked for 10 years or more in a duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years.
>
> (ii) The appointment of such employee should not be illegal, even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive selection, such appointments are considered to be irregular."

44. It is nobody's case **that the degree-holder Junior Engineers were not qualified for appointment as Assistant Engineers as even they**

> **possess degrees from recognised institutions. It is also** nobody's case **that they were not appointed against the sanctioned post. There was some debate as to the actual number of vacancies available from time to time but we have no hesitation in holding that the appointments made were at all relevant points of time against sanctioned posts. The information provided by Mr. Nageswara Rao, learned Additional Solicitor General, appearing for the State of Orissa, in fact, suggests that the number of vacancies was at all points of time more than the number of appointments made on ad hoc basis. It is also clear that each one of the degree-holders has worked for more than 10 years ever since his appointment as ad hoc Assistant Engineer. It is in that view difficult to describe these appointments of the Stipendiary Engineers on ad hoc basis to be illegal so as to fall beyond the purview of the scheme envisaged in** Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753].
>
> 45. The upshot of the above discussion is that not only because in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] this Court did not disturb the appointments already made or regularisation granted, but also because the decision itself permitted regularisation in case of irregular appointments, the legislative enactment granting such regularisation does not call for interference at this late stage when those appointed or regularised have already started retiring having served their respective departments, in some cases for as long as 22 years."
>
> (Emphasis supplied)

15. A three Judges bench of the Apex Court considering the case of **UMADEVI** *supra* and subsequent judgments, in the case of **PREM SINGH v. STATE OF U.P**.[6], holds as follows:

[6] (2019) 10 SCC 516

"36. There are some of the employees who have not been regularised 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 regularised under the Government instructions and even as per the decision of this Court in State of Karnataka v. Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753]. **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 regularised of such employees. In the facts of the case, those employees who have worked for ten years or more should have been regularised. 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. However, it is made clear that they shall not be entitled to claiming any dues of difference in wages had they been continued in service regularly before attaining the age of superannuation. They shall be entitled to receive the pension as if they have retired from the regular establishment and the services rendered by them right from the day they entered the work-charged establishment shall be counted as qualifying service for purpose of pension.**

37. In view of reading down Rule 3(8) of the U.P. Retirement Benefits Rules, 1961, we hold that services rendered in the work-charged establishment shall be treated as qualifying service under the aforesaid rule for grant of pension. The arrears of pension shall be confined to three years only before the date of the order. Let the admissible benefits be paid accordingly within three months. Resultantly, the appeals filed by the employees are allowed and filed by the State are dismissed."

(Emphasis supplied)

16. The Apex Court later, in the case of **JAGGO v. UNION OF INDIA**[7] has held as follows:

> "**7. They urged the High Court to recognize their long and continuous service, the nature of their work, and the lack of any backdoor or illegal entry. They highlighted that they had functioned without any break, performed tasks equivalent to regular employees, and had been assigned duties essential to the regular upkeep, cleanliness, and maintenance of the respondent's offices. The High Court, after examining the Tribunal's decision and the submissions advanced, concluded that the petitioners before it were part-time workers who had not been appointed against sanctioned posts, nor had they performed a sufficient duration of full-time service to satisfy the criteria for regularization.** It relied on the principle laid down in Secretary, State of Karnataka v. Uma Devi[3] holding that the petitioners could not claim a vested right to be absorbed or regularized without fulfilling the requisite conditions. The High Court further observed that the petitioners did not possess the minimum educational qualifications ordinarily required for regular appointments, and additionally noted that the employer had subsequently outsourced the relevant housekeeping and maintenance activities. Concluding that there was no legal basis to grant the reliefs sought, the High Court dismissed the writ petition. Aggrieved by this rejection, the appellants have approached this Court by way of these appeals.
>
> **8.** On behalf of the appellants, the following arguments have been advanced before us:
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> (i). **Continuous and Substantive Engagement:** The appellants emphasize their long, uninterrupted service spanning well over a decade—and in some instances, exceeding two decades. They argue that their duties were neither sporadic nor project-

[7] 2024 SCC OnLine SC 3826

based but permanent and integral to the daily functioning of the respondent's offices.

(ii). **Nature of Duties:** Their responsibilities— such as cleaning, dusting, gardening, and other maintenance tasks—were not casual or peripheral. Instead, they were central to ensuring a clean, orderly, and functional work environment, effectively aligning with roles typically associated with regular posts.

(iii). **Absence of Performance Issues:** Throughout their tenure, the appellants were never issued any warning or adverse remarks. They highlight that their work was consistently satisfactory, and there was no indication from the respondents that their performance was not satisfactory or required improvement.

(iv). **Compliance with 'Uma Devi' Guidelines:** The appellants assert that their appointments were not "illegal" but at most "irregular." Drawing on the principles laid down in Secretary, State of Karnataka v. Uma Devi[4], they submit that long-serving employees in irregular appointments—who fulfil essential, sanctioned functions—are entitled to consideration for regularization.

(v). **Discrimination in Regularization:** The appellants point out that individuals with fewer years of service or similar engagements have been regularized. They contend that denying them the same benefit, despite their longer service and crucial role, constitutes arbitrary and discriminatory treatment.

(vi). **Irrelevance of Educational Qualifications:** The appellants reject the respondents' reliance on formal educational requirements, noting that such criteria were never enforced earlier and that the nature of their work does not inherently demand formal schooling. They argue that retrospectively imposing such qualifications is unjustified given their proven capability over many years.

(vii). **Equity and Fairness:** Ultimately, the appellants submit that the High Court erred by focusing too rigidly on their initial terms of engagement and ignoring the substantive reality of their long, integral service. They maintain that fairness,

equity, and established judicial principles call for their regularization rather than abrupt termination

9. On the other hand, the following primary arguments have been advanced before us on behalf of the Respondents:

(i). **Nature of Engagement:** The respondents maintain that the appellants were engaged purely on a part-time, contractual basis, limited to a few hours a day, and that their work was never intended to be permanent or full-time.

(ii). **Absence of Sanctioned Posts:** They assert that the appellants were not appointed against any sanctioned posts. According to the respondents, without sanctioned vacancies, there can be no question of regularization or absorption into the permanent workforce.

(iii). **Non-Compliance with 'Uma Devi' Criteria:** Relying heavily on Secretary, State of Karnataka v. Uma Devi (supra), the respondents argue that the appellants do not meet the conditions necessary for regularization. They emphasize that merely serving a long period on a part-time or ad-hoc basis does not create a right to be regularized.

(iv). **Educational Qualifications:** The respondents contend that even if the appellants were to be considered for regular appointments, they do not possess the minimum educational qualifications mandated for regular recruitment. This, in their view, disqualifies the appellants from being absorbed into regular service.

(v). **Outsourcing as a Legitimate Policy Decision:** The respondents point out that they have chosen to outsource the relevant housekeeping and maintenance work to a private agency. This, they argue, is a legitimate administrative policy decision aimed at improving efficiency and cannot be interfered with by the courts.

(vi). **No Fundamental Right to Regularization:** Finally, the respondents underscore that no employee, merely by virtue of long-standing temporary or part-time engagement,

acquires a vested right to be regularized. They maintain that the appellants' claims are devoid of any legal entitlement and that the High Court was correct in dismissing their petition.

10. Having given careful consideration to the submissions advanced and the material on record, we find that the appellants' long and uninterrupted service, for periods extending well beyond ten years, cannot be brushed aside merely by labelling their initial appointments as part-time or contractual. The essence of their employment must be considered in the light of their sustained contribution, the integral nature of their work, and the fact that no evidence suggests their entry was through any illegal or surreptitious route.

11. The appellants, throughout their tenure, were engaged in performing essential duties that were indispensable to the day-to-day functioning of the offices of the Central Water Commission (CWC). Applicant Nos. 1, 2, and 3, as Safaiwalis, were responsible for maintaining hygiene, cleanliness, and a conducive working environment within the office premises. Their duties involved sweeping, dusting, and cleaning of floors, workstations, and common areas—a set of responsibilities that directly contributed to the basic operational functionality of the CWC. Applicant No. 5, in the role of a Khallasi (with additional functions akin to those of a Mali), was entrusted with critical maintenance tasks, including gardening, upkeep of outdoor premises, and ensuring orderly surroundings.

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.

13. The claim by the respondents that these were not regular posts lacks merit, as the nature of the work performed by the appellants was perennial and fundamental to the functioning of the offices. The recurring nature of these duties necessitates their classification as regular posts, irrespective of how their initial engagements were labelled. It is also noteworthy that subsequent outsourcing of these same tasks to private agencies after the appellants' termination demonstrates the inherent need for these services. This act of outsourcing, which effectively replaced one set of workers with another, further underscores that the work in question was neither temporary nor occasional.

14. xxx

15. xxx

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.

17. As for the argument relating to educational qualifications, we find it untenable in the present context. The nature of duties the appellants performed—cleaning, sweeping, dusting, and gardening—does not inherently mandate formal educational prerequisites. It would be unjust to rely on educational criteria that were never central to their engagement or the performance of their duties for decades. Moreover, the respondents themselves have, by their conduct, shown that such criteria were not strictly enforced in other cases of regularization. The appellants' long-standing satisfactory performance itself attests to their capability to discharge

these functions, making rigid insistence on formal educational requirements an unreasonable hurdle.

18. xxx

19. It is evident from the foregoing that the appellants' roles were not only essential but also indistinguishable from those of regular employees. Their sustained contributions over extended periods, coupled with absence of any adverse record, warrant equitable treatment and regularization of their services. Denial of this benefit, followed by their arbitrary termination, amounts to manifest injustice and must be rectified.

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 judgment of this Court in Vinod Kumar v. Union of India[5], 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 judgment 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).
>
> 7. The judgment in the case Uma Devi (supra) also distinguished between "irregular" and "illegal" appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case…"

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.

22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of

temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.

23. The International Labour Organization (ILO), of which India is a founding member, has consistently advocated for employment stability and the fair treatment of workers. The ILO's Multinational Enterprises Declaration[6] encourages companies to provide stable employment and to observe obligations concerning employment stability and social security. It emphasizes that enterprises should assume a leading role in promoting employment security, particularly in contexts where job discontinuation could exacerbate long-term unemployment.

24. The landmark judgment of the United State in the case of Vizcaino v. Microsoft Corporation[7] serves as a pertinent example from the private sector, illustrating the consequences of misclassifying employees to circumvent providing benefits. In this case, Microsoft classified certain workers as independent contractors, thereby denying them employee benefits. The U.S. Court of Appeals for the Ninth Circuit determined that these workers were, in fact, common-law employees and were entitled to the same benefits as regular employees. The Court noted that large Corporations have increasingly adopted the practice of hiring temporary employees or independent contractors as a means of avoiding payment of employee benefits, thereby increasing their profits. This judgment underscores the principle that the nature of the work performed, rather than the label assigned to the worker, should determine employment status and the corresponding rights and benefits. It highlights the judiciary's role in rectifying such misclassifications and ensuring that workers receive fair treatment.

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

obligations owed to employees. These practices manifest in several ways:

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

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

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

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

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

26. While the judgment in Uma Devi (supra) sought to curtail the practice of backdoor entries

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

27. In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country."

(Emphasis supplied)

17. Again, the Apex Court in the case of **SHRIPAL v. NAGAR NIGAM[8],** has held as follows:

> "**3.** The factual matrix leading up to the appeal before us is as follows:
>
> **3.1.** The Appellant Workmen claim to have been engaged as Gardeners (Malis) in the Horticulture Department of the Respondent Employer, Ghaziabad Nagar Nigam, since the year 1998 (in some instances, since 1999). According to them, they continuously discharged horticultural and maintenance duties— such as planting trees, maintaining parks, and beautifying public spaces—under the direct supervision of the Respondent Employer. They further allege that no formal appointment letters were ever issued to them, and that they were persistently denied minimum wages, weekly offs, national holidays, and other statutory benefits.
>
> **3.2.** In 2004, the Appellant Workmen, along with many other similarly situated employees, raised an industrial dispute (C.B. Case No. 6 of 2004) before the Conciliation Officer at Ghaziabad, seeking regularization of their services and the requisite statutory benefits. They contend that, upon learning of this demand, the Respondent Employer began delaying their salaries and subjected them to adverse working conditions. Eventually, around mid-July 2005, the services of numerous workmen were allegedly terminated orally, without any notice, written orders, or retrenchment compensation.
>
> **3.3.** Since the above termination took place during the pendency of the conciliation proceedings, the Appellant Workmen argue it violated Section 6E of the U.P. Industrial Disputes Act, 1947. Consequently, the State Government referred the disputes concerning both (i) regularization and (ii) legality of the alleged termination, to the Labour Court, Ghaziabad for adjudication.

[8] 2025 SCC OnLine SC 221

3.4. The Labour Court proceeded to decide the references vide two orders:

(i) Order dated 03.06.2011 : In numerous adjudication cases (e.g., Adjudication Case Nos. 448, 451, 467 of 2006, etc.), the Labour Court passed awards holding the terminations illegal for want of compliance with Section 6N of the U.P. Industrial Disputes Act, 1947, and directed reinstatement with 30% back wages.

(ii) Order dated 11.10.2011 : However, in about 41 other adjudication cases (e.g., Adjudication Case Nos. 269, 270, 272, etc.), the Labour Court arrived at a contrary conclusion, dismissing the claims on the finding that the concerned workmen had not been engaged directly by the Nagar Nigam but rather through a contractor, and hence had no enforceable right to reinstatement or regularization against the Respondent Employer.

3.5. Aggrieved by the adverse portion of the awards (i.e., those granting reinstatement), the Respondent Employer, Ghaziabad Nagar Nigam, filed several writ petitions before the High Court of Judicature at Allahabad, challenging the Labour Court's findings. On the other hand, the workmen whose claims were dismissed by the other set of awards also approached the High Court by filing their own writ petitions. All these writ petitions were heard together, culminating in the common judgment dated 01.03.2019, which partly modified the Labour Court's conclusions.

3.6. Through the impugned judgment, the High Court held that while the Labour Court was correct in exercising jurisdiction under the U.P. Industrial Disputes Act (since municipalities could be treated as "industry"), there remained factual complexities as to whether the workmen were genuinely on the rolls of the Nagar Nigam or were provided by contractors. The High Court also noted that the State Government had, by notifications/orders, placed a ban on fresh recruitments in Municipal Corporations, thereby restricting direct appointments to any post. Ultimately, the High Court partially modified the relief granted, directing re-engagement of the workmen on daily wages, with pay equivalent to

the minimum in the regular pay scale of Gardeners, while allowing future consideration of their regularization if permissible by law.

4. Both the Appellant Workmen and the Respondent Employer have now approached this Court by way of Special Leave Petitions. The workmen primarily seek full reinstatement with back wages and a direction to secure their regularization, whereas the Respondent Employer seeks to quash the modifications ordered by the High Court on the ground that the High Court exceeded its jurisdiction by granting partial relief akin to regular employees, contrary to constitutional provisions and the State's ban on recruitment.

5. Learned counsel for the Appellant Workmen made the following submissions:

I. **Continuous Service & Comparable Duties** : The Appellant Workmen had continuously discharged horticultural and maintenance duties— like planting trees, upkeep of public parks, and general beautification—under the direct supervision and control of the Respondent Employer for periods often exceeding a decade. They insist such longstanding, continuous work parallels that of permanent Gardeners.

II. **Direct Engagement & Wage Disbursement** : They aver that their wages, though inadequate, were paid directly by the Horticulture Department of the Respondent Employer, nullifying the Employer's claim of contractual hiring. Muster rolls and internal notes are cited to show direct employer-employee relations.

III. Illegal Termination : Alleging violation of Sections 6E and 6N of the U.P. Industrial Disputes Act, 1947, the Appellant Workmen maintain their abrupt termination in July 2005 (during pendency of conciliation proceedings) was devoid of due process and statutory payments, rendering it patently illegal.

IV. Entitlement to Reinstatement & Regularization : Given their long service and the principle of "equal pay for equal work," the Appellant Workmen submit they deserve full reinstatement with back wages and a legitimate

pathway to regularization, as opposed to the partial relief of mere daily-wage re-engagement prescribed by the High Court.

6. On the other, the learned counsel for the Respondent Employer, Ghaziabad Nagar Nigam made the following submissions:

I. **Compliance with Constitutional Requirements** : Emphasizing the constitutional scheme of public employment, it is urged that there was (and remains) a ban on fresh recruitment in Municipal Corporations, and no proper selection process was ever followed to appoint the Workmen on any sanctioned posts.

II. No Direct Employer-Employee Relationship : The Respondent Employer contends that all horticulture work was carried out through independent contractors appointed via tender processes. It claims any partial wage documentation cited by the Workmen fails to establish direct engagement.

III. Inapplicability of Regularization : Relying on Secretary, State of Karnataka v. Umadevi[1], it is asserted that no daily wager can claim permanent absorption without adherence to constitutional requirements and availability of duly sanctioned vacancies.

IV. Inadequate Proof of 240 Days' Service : The Respondent Employer points out that the Workmen did not convincingly demonstrate they completed 240 days of continuous work in any calendar year, thus undermining the assertion that their cessation from service was illegal.

V. Challenge to Modified Relief: Finally, it argues that the High Court's direction to pay minimum-scale wages and to consider the Workmen for future regularization oversteps legal boundaries, disregards the recruitment ban, and fosters an impermissible avenue of public employment. The Respondent Employer, therefore, seeks the quashing of the impugned judgment.

7. Having heard the arguments and submissions of the learned counsel for the parties and having perused

the record, this Court is of the considered opinion that the nature of engagement of the Appellant Workmen, the admitted shortage of Gardeners, and the circumstances under which their services were brought to an end, merit closer scrutiny.

8. It is undisputed that, while the Appellant Workmen were pressing for regularization and proper wages through pending conciliation proceedings, the Respondent Employer proceeded to discontinue their services, without issuing prior notice or granting retrenchment compensation. At this juncture, it is to have a look at the requirements of Section 6E of the U.P. Industrial Disputes Act, 1947 which has been reproduced hereunder:—

"6E. [Conditions of service, etc. to remain unchanged in certain circumstances during the pendency of proceedings. [Inserted by U.P. Act No. 1 of 1957.]

(1) During the pendency of any conciliation proceeding before a Conciliation Officer or a Board or of any proceeding before a Labour Court or Tribunal in respect of an industrial dispute, no employer shall, -

(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding, or

(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise any workman concerned in such dispute save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute, -

(a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding, or

(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2) no employer shall during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute, -

(a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceeding, or

(b) by discharging or punishing, whether by dismissal or otherwise, such protected workman, such with the express permission in writing of the authority before which the proceeding is pending. Explanation. - For the purposes of this sub-section, a 'protected workman' in relation to an establishment, means a workman who, being an officer of a registered trade union connected with the establishment, is recognized as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workmen to be recognized as protected workmen for the purposes of sub-section (3) shall not exceed one per cent of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the State Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which they may be chosen and recognized as protected workmen.

(5) Where an employer makes an application to a Board, Labour Court or Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the

authority concerned shall, without delay, hear such application and pass, as expeditiously as possible, such order in relation thereto as it deems fit."

9. On a plain reading of this section, we can deduce that any unilateral alteration in service conditions, including termination, is impermissible during the pendency of such proceedings unless prior approval is obtained from the appropriate authority. The record in the present case does not indicate that the Respondent Employer ever sought or was granted the requisite approval. Prima facie, therefore, this conduct reflects a deliberate attempt to circumvent the lawful claims of the workmen, particularly when their dispute over regularization and wages remained sub judice.

10. The Respondent Employer consistently labelled the Appellant Workmen as casual employees (or workers engaged through an unnamed contractor), yet there is no material proof of adherence to Section 6N of the U.P. Industrial Disputes Act, 1947, which mandates a proper notice or wages in lieu thereof as well as retrenchment compensation. In this context, whether an individual is classified as regular or temporary is irrelevant as retrenchment obligations under the Act must be met in all cases attracting Section 6N. Any termination thus effected without statutory safeguards cannot be undertaken lightly.

11. xxxx

12. xxxx

13. xxxx

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 India[3] in the following paragraphs:

"xxxxxxxxx"

16. xxx

17. xxx

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

I. The discontinuation of the Appellant Workmen's services, effected without compliance with Section 6E and Section 6N of the U.P. Industrial Disputes Act, 1947, is declared

illegal. All orders or communications terminating their services are quashed. In consequence, the Appellant Workmen shall be treated as continuing in service from the date of their termination, for all purposes, including seniority and continuity in service.

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

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

IV. The Respondent Employer is directed to initiate a fair and transparent process for regularizing the Appellant Workmen within six months from the date of reinstatement, duly considering the fact that they have performed perennial municipal duties akin to permanent posts. In assessing regularization, the Employer shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Appellant Workmen or to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the Respondent Employer shall expedite all necessary administrative processes to ensure these long-time employees are not indefinitely retained on daily wages contrary to statutory and equitable norms.

19. In view of the above, the appeal(s) filed by the workmen are allowed, whereas the appeal(s) filed by the Nagar Nigam Ghaziabad are dismissed."

(Emphasis supplied)

> On a coalesce of the judgments rendered by the Apex Court in the afore-quoted cases, which were in the aftermath of the judgment in the case of **UMADEVI (3)** supra, would in unmistakable terms indicate that regularization of employees is not a concept that is obliterated, but could be considered on several parameters laid down in the said judgments. One unmistakable stream that runs through judicial thinking of judgments of the Apex Court is that, regularization of the services of the employees engaged to work for the State for long years should be considered, failing which, it would amount to violation of Article 14 of the Constitution of India."

18. It is further germane to notice the Subsequent judgment of the Apex Court in the case of **DHARAM SINGH AND OTHERS VS. STATE OF U.P. AND ANOTHER**[9]**,** wherein the Apex Court has held as follows:

> "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. Having regard to the long, undisputed service of the appellants, the admitted perennial nature of their duties, and the material indicating vacancies and

[9] 2025 SCC OnLine SC 1735

comparator regularisations, we issue the following directions:

i. ***Regularization and creation of*** **Supernumerary posts:** All appellants shall stand regularized with effect from 24.04.2002, the date on which the High Court directed a fresh recommendation by the Commission and a fresh decision by the State on sanctioning posts for the appellants. For this purpose, the State and the successor establishment (U.P. Education Services Selection Commission) shall create supernumerary posts in the corresponding cadres, Class-III (Driver or equivalent) and Class-IV (Peon/Attendant/Guard or equivalent) without any caveats or preconditions. On regularization, each appellant shall be placed at not less than the minimum of the regular pay-scale for the post, with protection of last-drawn wages if higher and the appellants shall be entitled to the subsequent increments in the pay scale as per the pay grade. For seniority and promotion, service shall count from the date of regularization as given above.

ii. **Financial consequences and arrears:** Each appellant shall be paid as arrears the full difference between (a) the pay and admissible allowances at the minimum of the regular pay-level for the post from time to time, and (b) the amounts actually paid, for the period from 24.04.2002 until the date of regularization/retirement/death, as the case may be. Amounts already paid under previous interim directions shall be so adjusted. The net arrears shall be released within three months and if in default, the unpaid amount shall carry compound interest at 6% per annum from the date of default until payment.

iii. **Retired appellants:** Any appellant who has already retired shall be granted regularization with effect from 24.04.2002 until the date of superannuation for pay fixation, arrears under clause (ii), and recalculation of pension, gratuity and other terminal dues. The revised pension and terminal dues shall be paid within three months of this Judgment.

iv. **Deceased appellants:** In the case of Appellant No. 5 and any other appellant who has died during pendency, his/her legal representatives on record shall be paid the arrears under clause (ii) up to the date of death, together with all terminal/retiral dues recalculated consistently with clause (i), within three months of this Judgment.

v. **Compliance affidavit:** The Principal Secretary, Higher Education Department, Government of Uttar Pradesh, or the Secretary of the U.P. Education Services Selection Commission or the prevalent competent authority, shall file an affidavit of compliance before this Court within four months of this Judgment.

20. We have framed these directions comprehensively because, case after case, orders of this Court in such matters have been met with fresh technicalities, rolling "reconsiderations," and administrative drift which further prolongs the insecurity for those who have already laboured for years on daily wages. Therefore, we have learned that Justice in such cases cannot rest on simpliciter directions, but it demands imposition of clear duties, fixed timelines, and verifiable compliance. As a constitutional employer, the State is held to a higher standard and therefore it must organise its perennial workers on a sanctioned footing, create a budget for lawful engagement, and implement judicial directions in letter and spirit. Delay to follow these obligations is not mere negligence but rather it is a conscious method of denial that erodes livelihoods and dignity for these workers. The operative scheme we have set here comprising of creation of supernumerary posts, full regularization, subsequent financial benefits, and a sworn affidavit of compliance, is therefore a pathway designed to convert rights into outcomes and to reaffirm that fairness in engagement and transparency in administration are not matters of grace, but obligations under Articles 14, 16 and 21 of the Constitution of India"

19. **The first discernable departure from the rigid contours of UMADEVI was in the case of NARENDRA KUMAR TIWARI *supra*, where the Apex Court cautioned that the pernicious practice of indefinitely continuing employees appointed through irregular means if allowed to persist, would subvert the very intent of the**

Constitution Bench in UMADEVI. The Court observed that where employees had rendered 10 years of continuous service to the State of Jharkhand, they observed regularization. Barring the existence of any valid impediment such as misconduct or lack of eligibility, this exposition was further amplified in SHEO NARAIN NAGAR, *supra,* where the Apex Court lamented that UMADEVI was being wielded as a convenient instrument to perpetuate injustice, by continuing employees in service without regularization and in some cases, even without payment of lawful wages. Noting that the appellants therein had been in service since 1993 and had completed 10 years well prior to UMADEVI, the Court held that denial of regularization would be wholly unjustified.

20. The Apex Court carried forward the jurisprudence in CHANDER MOHAN NEGI *supra*, wherein the Apex Court was dealing with the case of teachers, exhorted the State forthwith to frame an appropriate policy for regularization. In AMARENDRA KUMAR MOHAPATRA *supra,* the Court undertook a detailed reconciliation of UMADEVI with STATE OF KARNATAKA vs.

M.L.KESARI[10], elucidating why regularization must necessarily follow once an employee has completed 10 years of service while being otherwise qualified. The reasoning finds further affirmation in the case of PREM SINGH *supra.*

21. **Thereafter, in JAGGO *supra,* the Apex Court after an exhaustive consideration of rival submissions, holds that the employees who had rendered uninterrupted service extended far beyond a decade, could not be nonchalantly discarded by the facile label of 'part time' or 'contractual'. The Court underscored that the true essence of employment lies in the sustained contribution rendered, the integral nature of work performed and the absence of allegation that the entry was tainted by illegality or subterfuge. The Court requesting plight of employees who had toiled for a decade or two, without career progression or equal remuneration holding that such treatment amounted to denial of basic human right and a perpetuation of exploitation of human labour.** The culmination of this judicial evaluation is reflected in SHRIPAL

[10] (2010) 9 SCC 247

supra where the Apex Court after surveying the entire spectrum of law, **unequivocally holds that the UMADEVI cannot be pressed into service as a shield to justify exploitative engagements continuing for years without the employer undertaking lawful recruitment.** Consequently, the regularization was directed for employees who had completed 10 years of service.

22. **The line of reasoning attained further crystallization in DHARAM SINGH *supra,* rendered in August 2025 wherein, the Apex Court holds that the appellants who had already retired were nevertheless entitled to regularization with effect from the date on which they completed 10 years of service. The Court further directed re-calculation and disbursement of pension, gratuity and other terminal benefits within three months from the date of the said judgment. Significantly, even in respect of the deceased appellants, the Apex Court held where death occurred during the pendency of the claim of regularization, the legal heirs would be entitled to arrears of terminal benefits, in accordance with law.**

23. **What unmistakably emerges from the afore-quoted pronouncement is that the employees regardless of the nomenclature attached to their engagement, whether temporary, contractual or daily wage or even on consolidated pay, once they have completed 10 years of service and were otherwise qualified to hold the post, are entitled to consideration for regularization. Any denial thereof would reduce the appointment to an exploitative engagement.** The Apex Court has further cautioned that replacement of one set of temporary or contractual employees with another similarly placed set, would offend even the ratio of UMADEVI itself. As such, the conduct on the part of the State, cannot be countenanced.

24. **In so far as the retired employees are concerned, the Apex Court has authoritatively held that retirement during the pendency of the claim for regularization does not extinguish such claim.** The submissions advanced by the learned counsel Ms.Vaibhavi Inamdar, merits acceptance **as the petitioner in the present case retired while his claim for regularization subsisted**

and during the pendency of the writ petition, the right to consideration does not evaporate on attainment of age of superannuation. Equally, the receipt of certain arrears of salaries during contempt proceedings cannot operate as a waiver of petitioner's right to seek regularization. The Apex Court has gone a step further to hold that even in cases of deceased employees who asserted their claim for regularization during their lifetime and whose claim remained pending either before the State or before this Court or competent Judicial Fora, such claims must still be examined and granted, if otherwise permissible in the light of the law laid down in DHARAM SINGH *supra*.

25. Learned HCGP has contended that the initial appointment of the petitioner is contrary to law and therefore, the procedure was not followed while the initial appointment was made. The submission runs foul of elucidation of law by the Apex Court, hence noted, only to be rejected.

26. In the light of the law as enunciated by the Apex Court, in the aforesaid judgments, all of which have been applied by this Court in plethora of cases, the petitioner becomes

entitled to a direction for regularization of his services and all consequential terminal benefits. The service of the petitioner should stand regularized with effect from the date on which he completes 10 years of service from the date of initial engagement and his entitlement for arrears of salary on a regular pay scale will spring only from the date on which he completes 10 years of service but the period that he has spent throughout, shall be counted for the purpose of determination of terminal benefits of whatever nature it is.

27. **It is needless to observe that the State shall not drive the petitioner into yet another cycle of litigation by resurrecting judgment in UMADEVI to deny regularization. The Apex Court has in unmistakable terms held in its subsequent pronouncements that UMADEVI cannot be deployed as a shield to perpetuate injustice or to deny legitimate regularization to employees who have served State for decades.**

28. For the aforesaid reasons, the following:

O R D E R

[I] Writ Petition is **allowed**.

[II] The impugned endorsement stands quashed.

[III] A mandamus issues to the respondents to consider the regularization of the service of the petitioner bearing in mind the observations made in the course of the order with effect from 9.1.2004.

[IV] The petitioner shall be entitled to regular pay/pay scale for the purpose of determination of terminal benefits for the service of the petitioner from the date of initial engagement dated 10.01.1994 till he retires on 31.12.2015, shall be reckoned for the purpose of calculation of all terminal benefits.

[V] It is made clear that the petitioner shall not be entitled to arrears of regular salary from the date he becomes entitled to regularization till the date of superannuation. Except arrears of salary, the petitioner becomes entitled to all service benefits taking the entire service as service for the purpose of such determination.

[VI] Directions [III] and [IV] shall be complied within an outer limit of three months from the date of receipt of the copy of the order.

Sd/-
(M.NAGAPRASANNA)
JUDGE

RSH/CBC
CT-ASC/
List No.: 1 Sl No.: 44