Reserved on : 07.10.2026
Pronounced on : 16.10.2026

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

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DATED THIS THE 16th DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

AND

THE HON'BLE MRS JUSTICE HEMA KULKARNI

WRIT APPEAL NO.100680 OF 2025 (S-REG)

BETWEEN:

SMT. GEETA RAMAPPA TERDAL
AGE MAJOR, OCCU. SERVICE
R/O. OPPOSITE TO TELEPHONE
EXCHAANGE OFFICE
DANDELI, DIST. KARWAR

...APPELLANT

(BY SRI.R.S.SHETTAR, ADVOCATE)

Digitally signed by RAKESH S HARIHAR
Location: High Court of Karnataka, Dharwad Bench

AND:

1. COMMISSIONER,
   CITY MUNICIPALITY
   DANDELI, KARWAR DISTRICT

2. PROJECT DIRECTOR
   DISTRICT URBAN DEVELOPMENT CELL,

D.C.OFFICE, KARWAR

3. DIRECTOR
DIRECTORATE OF MUNICIPAL ADMINISTRATION
9TH FLOOR, VISHVESHWARAYYA TOWER,
DR. AMBEDKAR VEEDI,
BENGALURU-1.

4. COMMISSIONER
DIRECTORATE OF MUNICIPAL ADMINISTRATION
9TH FLOOR VISHVESHWARAYYA TOWER
DR. AMBEDKAR VEEDI,
BENGALURU-1

5. PRINCIPAL SECRETARY TO GOVERNMENT
KARNATAKA SECRETARIAT
URBAN DEVELOPMENT DEPARTMENT
VIKAS SOUDHA, BENGALURU 1

6. DEPUTY COMMISSIONER
D.C. OFFICE. KARWAR DISTRICT,
KARWAR.

…RESPONDENTS

(BY SMT.GIRIJA S.HIREMATH, HCGP)

THIS WRIT APPEAL IS FILED U/S.4 OF KARNATAKA HIGH COURT ACT, 1961, PRAYING THIS HON BLE COURT TO ALLOWING THIS APPEAL AND TO SET ASIDE THE ORDER DATED 29.08.2025 IN WRIT PETITION NO.105093/2022 AND ETC.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED ON 07.10.2026 AND COMING ON FOR PRONOUNCEMENT, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA
AND
HON'BLE MRS JUSTICE HEMA KULKARNI

CAV JUDGMENT

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

The appellant is before us calling in question the order dated 29-08-2025, rendered by the learned Single Judge in W.P.No.105093 of 2022, whereby the writ petition comes to be rejected on the solitary premise that the appellant, having attained the age of superannuation, could no longer seek regularization of her services. The learned Single Judge thus holds that the claim for regularization would not survive the appellant's retirement. It is this order, which places superannuation as an insurmountable impediment to the consideration of a claim that had its genesis during the appellant's subsisting service that is called in question in the present appeal. The issue, therefore, is whether the mere efflux of time culminating in superannuation could render an

otherwise subsisting claim for regularization otiose, particularly when the appellant had served the State for 34 long years and seeks consequential benefits flowing from such regularization.

2. Facts, adumbrated, are as follows:

2.1. The appellant, now aged 64 years, presents before this Court a rather disquieting tale of a public servant who entered the portals of Government service in the year 1988, served the State for an astonishing span of 34 years, and yet was made to depart from its service without ever being accorded the status of a regular employee. The appellant belongs to the Scheduled Caste community. Her entry into service was neither clandestine nor through the backdoor. It was pursuant to a selection process initiated by the respondent-State, through the Employment Exchange, for appointment to the post of Typist against a duly sanctioned and vacant post earmarked for the reserved category. On being selected, the appellant reported to duty on 08-06-1988 and continued to discharge the functions of a Typist under the

establishment of the 3rd respondent – Directorate of Municipal Administration.

2.2. After rendering nearly 24 years of uninterrupted service, the appellant staked her claim for regularization. Her claim was not one resting merely upon her own representation. It received the recommendation of the very establishment under which she had been serving, along with the claims of several other daily-wage employees similarly placed. What followed, however, was a curious and disturbing disparity. While 12 daily-wage employees, who had entered service subsequent to the appointment of the appellant, were extended the benefit of regularization, the appellant's claim remained unattended, notwithstanding the recommendations made in her favour by the respective departments.

2.3. Years rolled by; representations remained representations; recommendations remained recommendations; and the appellant continued to discharge the duties of a Typist, without the dignity and security of regular employment. Ultimately, in June 2022, the appellant attained the age of superannuation and was made to retire after rendering 34 long years of service, all of

which stood branded as daily-wage service. Thus, an appointment made against a sanctioned vacant post, pursuant to a selection process conducted through the Employment Exchange, was permitted to remain an engagement on daily wages for more than three decades. The appellant entered service in the hope of securing a livelihood with dignity, continued in service with the expectation of being treated on par with those similarly situated, and eventually retired with that expectation remaining unfulfilled.

2.4. The irony is difficult to overlook. Those who entered service after the appellant were regularized, while the appellant, who had preceded them in appointment and continued to serve the establishment for 34 years, was left to superannuate as a daily-wage employee. The State enjoyed the fruits of her labour for over three decades, but the question of according her the status of a regular employee remained unanswered throughout her service career. It is this peculiar, and indeed poignant, factual circumstance that forms the fulcrum of the present proceedings.

2.5. The appellant's claim for regularization, though repeatedly projected before the competent authorities, had

remained in a state of suspended consideration. The doors of the administration having yielded no relief, the appellant was constrained to knock at the doors of this Court by instituting W.P.No.105093 of 2022, seeking issuance of a writ in the nature of mandamus directing the respondents to regularize her services with all consequential benefits, as had been done in the case of other similarly situated employees.

2.6. The learned Single Judge, however, declined to entertain the claim, principally on the ground that the appellant had already attained the age of superannuation in June 2022 and, therefore, the question of regularization of a person who had retired from service would not arise. The writ petition was accordingly dismissed by the following order:

> "1. The petitioner is before this Court seeking for the following reliefs:
>
> *a. The Hon'ble Court be pleased to issue any appropriate order or direction or a writ, more particularly, in the nature of mandamus directing the respondents herein due to regularize the services of petitioner along with a consequential benefits in the interest of justice and equity.*
>
> *b. To pass such other orders that this Hon'ble Court deems fit and proper in the circumstances of the case.*
>
> *c. Costs of this writ petition may kindly be awarded.*

> 2. The essential claim of the petitioner is for the regularization of the services of the petitioner. However, the petitioner has superannuated in the mother of June 2022. Hence, the question of now regularising the services of a person who has superannuated would not arise.
>
> 3. As such, the petition stands ***dismissed***."

3. Heard Sri R S Shettar, learned counsel appearing for appellant and Smt Girija S Hiremath, learned High Court Government Pleader appearing for respondents.

SUBMISSIONS:

APPELLANTS:

4. Learned counsel appearing for the appellant taking this Court through the documents appended to the appeal, which were all appended to the writ petition as well, would seek to demonstrate that the appellant did not retire on attaining the age of superannuation without registering her claim. She has been agitating that she should be regularized right from the date she completed 10 years of service. He would submit that the appellant completed 34 years of service and had all recommendations from the powers that be for regularization of services. He would contend

that merely because an employee has retired on attaining the age of superannuation, the law is not that the claim of such employees would vanish in thin air. He would submit that the order of the learned Single Judge, on the face of it, is erroneous. He would seek the relief that had been sought before the learned Single Judge and regularization of services of the appellant.

STATE:

5. *Contrariwise*, the learned High Court Government Pleader would seek to defend the action of the learned single Judge, not on the reason so rendered by the learned Single Judge, but on the score that the appellant has retired on attaining the age of superannuation and judgment in the case of **SECRETARY, STATE OF KARNATAKA v. UMADEVI(3)**[1] would come in the way of regularization of services of the appellant, as the appellant was appointed as a daily wage employee, *albeit*, pursuant to the calling of names from the Employment Exchange, conduct of an interview and a sanctioned vacant post. Learned High Court Government

[1] **(2006) 4 SCC 1**

Pleader would nevertheless submit that the matter be remitted back to the learned Single Judge for appropriate adjudication.

6. We have given our anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

CONSIDERATION:

7. The dates and the sequence of events forming the links in the chain that has culminated in the claim of the appellant are not in dispute. They nevertheless warrant a brief recapitulation, for it is upon this factual foundation that the edifice of the appellant's claim rests. The appellant's entry into service was neither fortuitous nor through any backdoor arrangement. It was pursuant to a process of selection undertaken by the respondent-State, by calling for names from the Employment Exchange, against a duly sanctioned and vacant post. The appellant was accordingly appointed on 11-03-1998. Thus, the genesis of the appellant's appointment lay in a selection process initiated by the State itself, against an existing sanctioned vacancy, and not in any surreptitious entry into public

employment. This distinction assumes significance in the consideration of the appellant's claim for regularization.

7.1. The order of appointment in the Dandeli Municipality is as follows:

"ನಂ: ಪುರಸಭೆ/ಶಿಬ್ಬಂದಿ/ಕ್ರಮಾಂಕ 2094/87–88 ನಗರ ಸಭಾ ಕಾರ್ಯಾಲಯ,
ದಾಂಡೇಲಿ, ದಿನಾಂಕ:11.03.1998.

ರಿಗೆ,
ಶ್ರೀಮತಿ ಗೀತಾ ರಾ. ತೇರದಾಳ
ವಾಸ: ಹುಬ್ಬಿದ ಪಿಶ ಮಾರ್ಕೆಟ್ ಹತ್ತಿರ ಕಾರವಾರ

ಮಾನ್ಯರೇ,

ವಿಷಯ: ನಗರಸಭೆ ದಾಂಡೇಲ್ಯಲ್ಲಿ ದಿನಗೂಲಿಯ ಮೇಲೆ ಬೆರಳಚ್ಚುಗಾರ ಹುದ್ದೆಗೆ
ಸಂದರ್ಶನಕ್ಕೆ ಕರೆಯುವ ಬಗ್ಗೆ.

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ಮೇಲ್ಕಂಡ ವಿಷಯವನ್ನು ಗ್ಮನಿಸಿ ಜಿಲ್ಲಾ ಉದ್ಯೋಗ ಅವಿನಿಮಯ ಕೇಂದ್ರ ಕಾರವಾರದಿಂದ ದಿನಗೂಲಿ ಬೆರಳಚ್ಚುಗಾರರ ಹುದ್ದೆಗೆ ನಿಮ್ಮ ಹೆಸರನ್ನು ಸೂಚಿಸಲಾಗಿದೆ. ಆದುದರಿಂದ ನಿಮಗೆ ಈಮೂಲಕ ತಿಳಿಯಪಡಿಸುವುದೇನೆಂದರೆ, ನೀವು ದಿನಾಂಕ 24.03.88 ರಂದು ಮುಂಜಾನೆ 11.00ಗಂಟೆಗೆ ನರಸಭೆ ದಾಂಡೇಲಿಯಲ್ಲಿ ಸಂದರ್ಶನಕ್ಕೆ ಹಾಜರಿರಬೇಕು. ಸದ್ರಿ ದಿನಗೂಲಿ ಬೆರಳಚ್ಚುಗಾರ ಹುದ್ದೆಗೆ ಲೋಕೋಪಯೋಗಿ ಪರಿಶಿಷ್ಟ ದರದಂತೆ ದಿನಗೂಲಿನ್ನು ಕೊಡಲಾಗುವುದು.

ನೀವು ಸಂದರ್ಶನಕ್ಕೆ ಬರುವಗ ಈ ಕೆಳಗೆ ನಮೂದಿಸಿದ ಅಸಲಿ ದಾಖಲೆ ಪತ್ರಗಳನ್ನು ಜೊತೆಯಲ್ಲಿ ತರತಕ್ಕದ್ದು.

1. ಜಾತಿ ಪ್ರಮಾಣ ಪತ್ರ

2. ಶಾಲೆ ಪ್ರಮಾಣ ಪತ್ರ ಜನನದ ಬಗ್ಗೆ.

3. ವಿದ್ಯಾರ್ಹತೆ ಪ್ರಮಾಣ ಪತ್ರ

4. ಕೆಲಸದ ಬಗ್ಗೆ ಅನುಭವ ಇದ್ದಲ್ಲಿ ಆ ಬಗ್ಗೆ ಪ್ರಮಾಣ ಪತ್ರ.

5. ಎರಡು ಪತ್ರಾಂಮ್ಕಿತ ಅಧಿಕಾರಿಗಳಿಂದ ನಡತೆಯ ಬಗ್ಗೆ ಪ್ರಮಾಣ ಪತ್ರ.

6. ಇನ್ನಿತರ ದಾಖಲೆ ಪ್ರಮಾಣಪತ್ರಗಳನ್ನು ತರತಕ್ಕದ್ದು.

ಸಂದರ್ಶನಕ್ಕೆ ಬರುವ ಹೋಗುವ ಖರ್ಚನ್ನು ಕೊಡಲಾಗುವುದಿಲ್ಲ.

ತಮ್ಮ ವಿಶ್ವಾಸಿಕ,
ಸಹಿ/–
ಆಯುಕ್ತರು, ನಗರಸಭೆ ದಾಂಡೇಲಿ"

The appellant thereafter continued to serve the said Municipality for nearly 18 years, discharging the duties entrusted to her with an expectation that the long years of service would eventually receive recognition in the form of regularization. In the interregnum, having regard to the qualifications possessed by the appellant, she was appointed to discharge the functions of a Computer Operator against a duly sanctioned and vacant post. The change in the nature of duties, however, brought about no corresponding change in the nature of her employment, as she continued to be retained on daily wages. Thus, while the Municipality found the appellant qualified and competent to discharge the duties attached to a sanctioned post, it continued to deny her the status of a regular employee. The appellant's services were evidently found necessary for the functioning of the establishment, but the question of regularizing those very services remained in abeyance.

7.2. It is in this backdrop that a communication emanates from the Municipal Council, Dandeli, on 04-10-2006, recommending the case of the appellant for regularization. The communication assumes significance, for the recommendation came not from the appellant herself, but from the very establishment which had engaged her services and had the benefit of her labour over the years. The recommendation, therefore, was not merely an assertion of entitlement by the appellant, but an acknowledgment by the employer of the circumstances warranting consideration of her claim for regularization. The communication dated 04-10-2006 reads as follows:

ಕ್ರ ಸಂಖ್ಯೆ:ನಸದಾಂ/ಕಂ ಆ /ವಿವ/125:2006.07:365/425 ದಿನಾಂಕ 4/10/2006

ರಿಗೆ,

ಮಾನ್ಯ ನಿರ್ದೇಶಕರು
ಪೌರಾಡಳಿತ ನಿರ್ದೇಶನಾಲಯ
9 ನೇ ಮಹಡಿ, ಡಾ ಬಿ ಆರ್ ಅಂಬೇಡ್ಕರ್ ವಿಧಿ
ವಿಶ್ವೇಶ್ವರಯ್ಯ ಕೇಂದ್ರ,
ಬೆಂಗಳೂರು 01

ಮಾನ್ಯರೇ,

(ಮಾನ್ಯ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು, ಉತ್ತರ ಕನ್ನಡ ಕಾರವಾರ ರವರ ಉಚಿತ ಮಾರ್ಗದ್ವಾರಾ)

ವಿಷಯ:– ದಾಂಡೇಲಿ ನಗರಸಭೆಯಲ್ಲಿ ಖಾಲಿ ಇರುವ ಕಂಪ್ಯೂಟರ್ ಅಪರೇಟರ್ ಹುದ್ದೆಯಲ್ಲಿ ಖಾಯಂ ಗೊಳಿಸುವ ಕುರಿತು.

ಮೇಲಿನ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ತಮ್ಮ ದಿವ್ಯ ಸನ್ನಿಧಿಯಲ್ಲಿ ತರಬಯಸುವುದೇನೆಂದರೆ, ದಾಂಡೇಲಿ ನಗರಸಭೆಯಲ್ಲಿ ಖಾಲಿ ಇದ್ದ ಬೆರಳಚ್ಚುಗಾರರ ಹುದ್ದೆಗೆ ಉದ್ಯೋಗ ವಿನಿಮಯ ಕಚೇರಿಯಿಂದ ಬಂದ –ಯಾದಿಯಲ್ಲಿ ಪರಿಶೀಷ್ಠ ಜಾತಿಯವರಿಗಾಗಿ ಮೀಸಲಿಟ್ಟ ಜಾಗೆಯಲ್ಲಿ ಶ್ರೀಮತಿ ಗೀತಾ ಆರ್ ತೇರದಾಳ ಇವರನ್ನು 1988ರಿಂದ ಇಲ್ಲಿಯವರೆಗೆ ದಿನಗೂಲಿ ಆಧಾರದಲ್ಲಿ ನೇಮಣೂಕಿ ಮಾಡಿ ಸಧ್ಯ ಅವರಿಗೆ ಸಮಾನ ಕೆಲಸಕ್ಕೆ ಸಮಾನ ವೇತನವನ್ನು ಕೊಡುತ್ತಾ ಬಂದಿದ್ದು ಇರುತ್ತದೆ.

ಇವರು ಎಸ್ ಎಸ್ ಎಲ್ ಸಿ ಪರೀಕ್ಷೆಯಲ್ಲಿ ತೇರ್ಗಡೆ ಹೊಂದಿದ್ದು ಕನ್ನಡ ಹಾಗೂ ಬೆರಳಚ್ಚು ಹಿರಿಯ ಶ್ರೇಣಿಯಲ್ಲಿ ತೇರ್ಗಡೆ ಹೊಂದಿದ್ದು ಅಲ್ಲದೆ ಮೂರು ತಿಂಗಳ ಕಂಪ್ಯೂಟರ್ ತರಬೇತಿಯನ್ನು ಸಹ ಪಡೆದಿರುತ್ತಾರೆ. ಅಲ್ಲದೆ 1988 ರಿಂದ ಇಲ್ಲಿಯವರೆಗೆ ದಿನಗೂಲಿ ಅಧಾರದಲ್ಲಿಯೇ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದು ಇನ್ನುವರೆಗೆ ಖಾಯಂ ಆಗಿದ್ದು ಇರುವುದಿಲ್ಲ. ಇದರಿಂದ ಸಿಗಬೇಕಾದ ಮುಂಬಡ್ತಿಯನ್ನು ಸಹ ಅವರು ಪಡೆದಿರುವುದಿಲ್ಲ. ಅಲ್ಲದೆ ಇವರ ಸೇವಾ ವಹಿಯು ದಿನಗೂಲಿ ನೌಕರರನ್ನು ಖಾಯಂ ಗೊಳಿಸುವ ಸಲುವಾಗಿ ತಮ್ಮ ಕಚೇರಿಯಲ್ಲಿ ಬಾಕಿಯಲ್ಲಿ ಇರುತ್ತದೆ. ಇವರು ಪರಿಶಿಷ್ಟ ಜಾತಿಯವರು ಆಗಿದ್ದು ಅವರನ್ನು ದಾಂಡೇಲಿ ನಗರಸಭೆಗೆ ಮಂಜೂರಿಯಲ್ಲಿರುವ ಕಂಪ್ಯೂಟರ್ ಅಪರೇಟರ್ ಹುದ್ದೆಯಲ್ಲಿ ಅಥವಾ ದ್ವಿತಿಯ ದರ್ಜೆ ಹುದ್ದೆಯಲ್ಲಿ ಖಾಯಂ ಗೊಳಿಸಿದಲ್ಲಿ ಅವರಿಗೆ ಅನುಕೂಲವಾಗಬಹುದಾಗಿದೆ. ಸದ್ರಿಯವರು ತಮ್ಮ ನೇಮಕಾತಿ ದಿನಾಂಕದಿಂದ ಇಲ್ಲಿಯವರೆಗೆ ಖಾಯಂ ಆಗದೇ ಮುಂಬಡ್ತಿ ಇಲ್ಲದೇ ಅತ್ಯುತ್ತಮವಾಗಿ ತಮ್ಮ ಕಾರ್ಯವನ್ನು ನಿರ್ವಹಿಸುತ್ತಿದ್ದು ಮೇಲಾಧಿಕಾರಿಯವರ ಮೆಚ್ಚುಗೆಗೆ ಪಾತ್ರರಾಗಿದ್ದಾರೆ. ಅಲ್ಲದೆ ಯಾವುದಾದರೂ ಹುದ್ದೆಯಲ್ಲಿ ಖಾಯಂಗೊಳ್ಳಲು ಬೇಕಾದ ಅರ್ಹತೆ ಹೊಂದಿದ್ದು ಸದ್ರಿಯವರನ್ನು ಖಾಯಂ ಗೊಳಿಸಿ ಕಂಪ್ಯೂಟರ್ ಅಪರೇಟರ್ ಅಥವಾ ದ್ವಿತಿಯ ದರ್ಜೆ ಸಹಾಯಕಿ ಅಂತಾ ದಾಂಡೇಲಿ ನಗರಸಭೆಯಲ್ಲಿ ಖಾಯಂ– ಇರುವ ಹುದ್ದೆಗೆ ಖಾಯಂ ಗೊಳಿಸಲು ಪರಿಶೀಲಿಸಬಹುದಾಗಿದೆ. ಇದರ ಲಗ್ತ ಸದ್ರಿಯವರ ಶೈಕ್ಷಣಿಕ ಹಾಗೂ ಕಂಪ್ಯೂಟರ್ ಕೋರ್ಸು ಮಾಡಿದ ಬಗ್ಗೆ ಪ್ರಮಾಣ ಪತ್ರದ ಜರಾಕ್ಸ್ ಪ್ರತಿಗಳನ್ನು ಲಗ್ನಿಸಲಾಗಿದೆ.

ಅಡಕ

1. ಎಸ್ ಎಸ್ ಎಲ್ ಸಿ ಪರೀಕ್ಷೆಯಲ್ಲಿ ಪಾಸಾದ ಬಗ್ಗೆ ಪ್ರಮಾಣ ಪತ್ರದ ಪ್ರತಿ
2. ಕನ್ನಡ, ಅಂಗ್ಲ ಹಿರಿಯ ಬೆರಳಚ್ಚು ಪರೀಕ್ಷೆಯಲ್ಲಿ ತೇರ್ಗಡೆಯಾದ ಬಗ್ಗೆ ಪ್ರಮಾಣ ಪತ್ರದ ಪ್ರತಿ
3. ಕಂಪ್ಯೂಟರ್ ಕೋರ್ಸು ಮಾಡಿದ್ದರೆ ಬಗ್ಗೆ ಪ್ರಮಾಣ ಪತ್ರದ ಪ್ರತಿಗಳು
4. ಸದ್ರಿಯವರ ವಿನಂತಿ ಅರ್ಜಿ

ತಮ್ಮ ವಿಶ್ವಾಸಿಕ

ಸಹಿಯಿದೆ
ಪೌರಾಯುಕ್ತರು ನಗರಸಭೆ ದಾಂಡೇಲಿ

ಮುಂಗಡ ಪ್ರತಿಯನ್ನು ಮಾನ್ಯ ನಿರ್ದೇಶಕರು ಪೌರಾಡಳಿತ ನಿರ್ದೇಶನಾಲಯ ಬೆಂಗಳೂರು ರವರಿಗೆ ಮಾಹಿತಿಗಾಗಿ ಗೌರವ ಪೂರ್ವಕ ಒಪ್ಪಿಸಿದೆ .

ಸಹಿ/–
ಪೌರಾಯುಕ್ತರು
ನಗರಸಭೆ ದಾಂಡೇಲಿ

ಪಿಪಿಎಪ್

7.3. The recommendations then continued by another communication on 23-07-2009, which reads as follows:

"ನಗರಸಭಾ ಕಾರ್ಯಾಲಯ ದಾಂಡೇಲಿ

ದಿನಾಂಕ: 23/07/2009 ರಂದು ಸಾಯಂಕಾಲ 4.00 ಗಂಟೆಗೆ ನಗರಸಭಾಂಗಣದಲ್ಲಿ ಜರುಗಿದ ಸರ್ವ ಸಾಧಾರಣ ಸಭೆಯಲ್ಲಿ ಪಾಸಾವ ನಡವಳಿಕೆಗಳ ಠರಾವ ನಂ 178 ರ ಯಥಾ ನಕಲು

ವಿಷಯ ನಂ.6:– ಶ್ರೀಮತಿ ಗೀತಾ ತೆರದಾಳ, ಬೆರಳಚ್ಚುಗಾರತಿ ಇವರ ಸೇವೆ ಸಕ್ರಮದ ಕುರಿತು

ಠರಾವ ನಂ 178 ದಿನಾಂಕ 23/7/2009:–

ವಿಷಯ ಮಂಡನೆಯ ನಂತರ ಕಚೇರಿ ಟಿಪ್ಪಣಿಯನ್ನು ಸಭೆಯಲ್ಲಿ ಓದಲಾಯಿತು. ಸನ್ 1987 ದಲ್ಲಿ ನಗರಸಭೆಯ ಕಾರ್ಯವನ್ನು ಸುವ್ಯವಸ್ಥಿತವಾಗಿ ನಿರ್ವಹಿಸಲು ಸಿಬ್ಬಂದಿಗಳ ಕೊರತೆ ಹಾಗೂ ಅದರಲ್ಲಿಯೂ ಬೆರಳಚ್ಚುಗಾರರ ಹಾಗೂ ಶೀರ್ಘಲಿಪಿಗಾರರ ಹುದ್ದೆಯು ಖಾಲಿ ಇರುವುದರಿಂದ ಅದನ್ನು ತುಂಬುವ ಕುರಿತು ಅಗಿನ ಸ್ಥಾಯಿ ಸಮೀತಿ ಠರಾವ ನಂ 173 ದಿನಾಂಕ 10/12/1987 ರಲ್ಲಿ ಚರ್ಚಿಸಲಾಗಿ ನಗರಸಭೆಗೆ ಮಂಜೂರಾದ ಒಂದು ಶೀರ್ಘಲಿಪಿಗಾರ ಹಾಗೂ ಎರಡು ಬೆರಳಚ್ಚುಗಾರರ ಹುದ್ದೆ ಇದ್ದು ಅದರಲ್ಲಿ ಒಬ್ಬ ಶೀರ್ಘಲಿಪಿಗಾರರೆಂದು ಶ್ರೀಮತಿ ಪ್ರಸಿಲ್ಲಾ ಪಿ ಫರ್ನಾಂಡೀಸ್ ಹಾಗೂ ಬೆರಳಚ್ಚುಗಾರರಾಗಿ ಶ್ರೀಮತಿ ಶಶಿರೇಖಾ ರಾಮನಗೌಡರ ಇವರು ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿದ್ದು ಒಬ್ಬ ಬೆರಳಚ್ಚುಗಾರರ ಹುದ್ದೆ ಖಾಲಿ ಇದೆ ಕಚೇರಿ ಕೆಲಸದ ಸುವ್ಯವಸ್ಥೆಗಾಗಿ ಖಾಲಿ ಇದ್ದ ಬೆರಳಚ್ಚುಗಾರರ ಹುದ್ದೆಗೆ ಜಿಲ್ಲಾ ಉದ್ಯೋಗ ವಿನಿಮಯ ಕೇಂದ್ರದಿಂದ ಅಭ್ಯರ್ಥಿಗಳ ಯಾದಿ ಪಡೆದು ಸಂದರ್ಶನದ ಮೂಲಕ ಒಬ್ಬ ಬೆರಳಚ್ಚುಗಾರರನ್ನು ದಿನಗೂಲಿ ನಾತೆಯಿಂದ ತೆಗೆದುಕೊಳ್ಳಲು ಠರಾಯಿಸಿದ್ದನ್ನು ಸಭೆಯು ಅರಿತು ಕೊಂಡಿತು ಹಾಗೂ ಅದರಂತೆ ಪ್ರಕ್ರಿಯೆ ನಡೆಯಿಸಿ ಶ್ರೀಮತಿ ಗೀತಾ ಆರ್ ತೇರದಾಳ ಅವರು ಕನ್ನಡ ಹಾಗೂ ಅಂಗ್ಲ ಭಾಷೆಯಲ್ಲಿ ಸೀನಿಯರ್ ಟೈಪಿಂಗ್ ಪರೀಕ್ಷೆಯಲ್ಲಿ ಪಾಸಾಗಿದ್ದರಿಂದ ಅವರನ್ನು ಅಗಿನ ಅಯ್ಕೆ ಸಮೀತಿಯು ಅಯ್ಕೆ ಮಾಡಿದ್ದನ್ನು ಕೂಡಾ ಸಭೆಯು ಮನಗಂಡಿತು. ಇತ್ತೀಚಿನ ಸರ್ಕಾರದ ಅದೇಶದಂತೆ 10 ವರ್ಷ ಮೇಲ್ಪಟ್ಟು ದಿನಗೂಲಿ ನಾತೆಯಿಂದ ಸೇವೆ ಸಲ್ಲಿಸಿದವರ ಸೇವೆಯನ್ನು ಸಕ್ರಮ ಗೊಳಿಸಲು ಸರ್ಕಾರವು ಅದೇಶ ಹೊರಡಿಸಲಾಗಿದ್ದು, ಅದರಂತೆ ಸದ್ರಿ ಶ್ರೀಮತಿ ಗೀತಾ ಆರ್ ತೆರದಾಳ ಇವರು ಎಲ್ಲ ರೀತಿಯಲ್ಲಿ ಸೇವಾ ಸಕ್ರಮತೆಗೆ ಅರ್ಹರಾಗಿದ್ದು ಸದ್ರಿಯವರನ್ನು ಅವರ ಸುಧೀರ್ಘ ಹಾಗೂ ಉತ್ತಮ ಸೇವೆ ಹಾಗೂ ಶೈಕ್ಷಣಿಕ ಅರ್ಹತೆಯ ಆಧಾರದ ಮೇಲೆ ಅವರ ಸೇವೆಯನ್ನು ಸಕ್ರಮ ಗೊಳಿಸಲು ಸಭೆಯು ಸರ್ವಾನುಮತದಿಂದ ಅನುಮೋದನೆಯನ್ನು ನೀಡಿ ಈ ಬಗ್ಗೆ ಯುಕ್ತ ಕ್ರಮವನ್ನು ಕೂಡಲೇ ಜರುಗಿಸಲು ಪೌರಾಯುಕ್ತರಿಗೆ ನಿರ್ದೇಶನ ನೀಡಲಾಯಿತು.

ಸಹಿ ಇದೆ

ಅಧ್ಯಕ್ಷರು
ನಗರಸಭೆ ದಾಂಡೇಲಿ

ನಕಲು

ಸಹಿ/–
ಪೌರಾಯುಕ್ತರು
ನಗರಸಭೆ ದಾಂಡೇಲಿ
ಪಿಪಿಎಪ್

7.4. On 25-01-2016, pursuant to the recommendations made by the Municipal Council seeking regularization of the services of employees engaged on daily wages, a list comprising 26 names was forwarded to the competent authority for consideration**. Of the 26 employees so recommended, 12 came to be regularized. The appellant, however, was conspicuously left out, notwithstanding her long years of service, the recommendation made by the very establishment under which she was working, and the claim for regularization founded upon documents whose authenticity is not in dispute. The benefit of regularization thus reached several employees, but eluded the appellant, who had continued to serve the establishment for decades.** The State, which had found it appropriate to regularize the services of 12 employees from the very same list, left the claim of the appellant unanswered. The

appellant's case was thus not one of seeking an isolated indulgence, but of seeking consideration on parity with those whose services had been regularized pursuant to the very same exercise.

7.5. The passage of time did not bring the appellant any closer to regularization. Representations were made, recommendations were forwarded, and years passed by, but the appellant continued to remain a daily-wage employee. What ought to have received consideration during the currency of her service was permitted to linger until the very service itself came to an end. The appellant, having spent the greater part of her working life in the service of the Municipality, ultimately attained the age of superannuation without the benefit of regularization. The culmination of her service, however, did not mark the culmination of her pursuit of the claim. Having approached this Court at the time of her retirement, the appellant instituted the subject writ petition seeking regularization of her services with all consequential benefits. The prayers sought in the writ petition read as follows:

> "a. The Hon'ble Court be pleased to issue any appropriate order or direction or a writ, more particularly, in the nature of mandamus directing the respondents herein due

to regularize the services of petitioner along with a consequential benefits in the interest of justice and equity.

b. To pass such other orders that this Hon'ble Court deems fit and proper in the circumstances of the case.

c. Costs of this writ petition may kindly be awarded."

The grievance projected by the appellant, therefore, is not merely that she was denied regularization, but that she was denied consideration for regularization while similarly situated employees were extended that benefit, and the passage of time was ultimately permitted to operate against her. **Whether the State could allow a claim of this nature to remain undecided throughout the employee's service and thereafter invoke superannuation as a ground to deny its consideration is the issue that lies at the heart of the present appeal.** The prayer was for a direction to regularize the services and grant of consequential benefits.

8. The issue now is, ***whether the appellant is entitled to seek regularization of services, notwithstanding the fact that the appellant was appointed on daily wages and retires on attaining the age of superannuation being a daily wage employee for 34 years?***

8.1. The sheet anchor of the defence projected by the respondents-State is the judgment of the Constitution Bench of the Apex Court in the case of **UMADEVI** *supra*, wherein, according to the State, regularization of employees engaged on daily wages, dehors the regular process of recruitment, is impermissible, more so when such employees have already attained the age of superannuation while continuing as daily-wage employees. The State would thus seek to place the judgment in the case of **UMADEVI** as an insurmountable legal impediment to the claim of the appellant. **The submission, though seemingly formidable, requires examination in the light of the law declared in the case of UMADEVI, the exception carved out therein, and the subsequent exposition of its principles by the Apex Court.**

8.2. The judgment in the case of **UMADEVI** cannot be read as though it were a charter for perpetuating irregular employment, nor can its declaration of law be divorced from the constitutional philosophy that animated it. The Constitution Bench sought to prevent the backdoor entry into public employment; it did not intend to confer upon the State an unbridled licence to extract

labour against sanctioned posts for decades together and thereafter disown the legitimate claims of those very employees by invoking the doctrine against regularization. Equally, the exception recognized in the judgment cannot be employed to defeat the constitutional mandate of equality in public employment. The distinction between an illegal appointment and an irregular appointment, the existence of a duly sanctioned post, the manner of initial engagement, the qualifications possessed by the employee, and the length and continuity of service are all facets that assume significance in the consideration of a claim of this nature.

8.3. The issue, therefore, is not whether every daily-wage employee acquires an indefeasible right to regularization by the mere passage of time. The issue is whether an employee who entered service through the Employment Exchange against a sanctioned vacancy, continued to serve the State for decades, received recommendations for regularization, and witnessed similarly situated employees being regularized, could be denied even consideration of her claim solely because she had, in the

meantime, attained the age of superannuation**. To answer this question, it becomes necessary to traverse the trajectory of the law from UMADEVI to the judgments that followed, for the law must be understood not merely by its declaration at one point in time, but by the manner in which its principles have subsequently been explained, distinguished and applied.**

9. It is, therefore, germane to notice the evolution of the law on regularization, beginning with the judgment of the Constitution Bench in **UMADEVI** and proceeding to its judicial aftermath.

UMADEVI AND ITS AFTERMATH

9.1. 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 in the case of **UMADEVI** 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."

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**.

9.2. The Apex Court in the case of **AMARENDRA KUMAR MOHAPATRA v. STATE OF ORISSA**[2], 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

[2] **(2014) 4 SCC 583**

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 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**."

9.3. The Apex Court in the case of **SHEO NARAIN NAGAR v. STATE OF UTTAR PRADESH**[3], holds as follows:

> "…. …. ….
>
> 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**

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[3] **(2018) 13 SCC 432**

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."**

9.4. The Apex Court in the case of **NARENDRA KUMAR TIWARI v. STATE OF JHARKHAND**[4], 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 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**

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[4] **(2018) 8 SCC 238**

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.**"

9.5. 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 UTTAR PRADESH**[5], holds as follows:

"…. …. ….

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)

[5] (2019) 10 SCC 516

[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**."

9.6. The Apex Court in the case of **CHANDER MOHAN NEGI v. STATE OF HIMACHAL PRADESH[6],** holds as follows:

"…. …. ….

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

[6] **(2020) 5 SCC 732**

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."

9.7. The Apex Court in the case of **SUKHENDU BHATTACHARJEE v. STATE OF ASSAM**[7], while following the earlier judgments in the cases of **JAGGO v. UNION OF INDIA** reported in **2024 SCC OnLine SC 3826**; **SHRIPAL v. NAGAR NIGAM, GHAZIABAD** reported in **2025 SCC OnLine SC 221** and **DHARAM SINGH v. STATE OF UTTAR PRADESH** reported in **2025 SCC OnLine SC 1735,** has held as follows:

"…. …. ….

> **54.** There is no dispute that the appellants had been engaged as Work Charged/Muster Roll workers much prior to 1st April, 1993 and had continuously discharged their duties over a prolonged period of time. Their position is, in no manner, distinguishable from those Work Charged/Muster Roll workers whose services were regularized pursuant to the Cabinet decision dated 22nd July, 2005. The appellants were left out from the exercise of regularization owing to inadvertent mistakes, clerical errors and administrative discrepancies on the part of the State. Hence, the appellants cannot be faulted for denial of the benefits flowing from the aforesaid Cabinet decision under which nearly 30,000 similarly situated workers were regularized. **The core question, therefore, which arises for consideration is whether, in the aforesaid circumstances, the appellants can be denied the benefit of regularization solely on the ground that they were not appointed against sanctioned posts and that the decision in *Umadevi* (supra) prohibits such regularization.**
>
> **55. The key reason assigned by the Division Bench in overturning the judgment of the learned Single Judge was that the employees were not appointed against duly sanctioned vacant posts and, therefore, did not satisfy the requirements of the exception carved out in**

[7] **2026 SCC OnLine SC 909**

paragraph 53 of *Umadevi* (supra). The Division Bench held that regularization is permissible only in cases of irregular (and not illegal) appointments of duly qualified persons working against sanctioned vacant posts for ten years or more without the protection of Court orders. Since, according to the State, none of the respondents therein were appointed against sanctioned posts, the benefit of the one-time measure contemplated in *Umadevi* (supra), and explained in *M.L. Kesari* (supra), was held to be inapplicable to them.

56. Paragraph 53 of *Umadevi* (supra) would be relevant for consideration of the *lis* and the same is reproduced hereinbelow:—

> "**53.** One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V. Narayanappa* (supra), *R.N. Nanjundappa* (supra), and *B.N. Nagarajan* (supra), and referred to in paragraph 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 Courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. **In that context, the Union of India, the State Governments, and their instrumentalities should take steps to regularize 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 regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularizing or making permanent,

those not duly appointed as per the constitutional scheme."

(Emphasis supplied)

57. The one-time exception as carved out in paragraph 53 of *Umadevi* (supra) was further elaborated and explained in *M.L. Kesari* (supra) wherein this Court observed as follows:—

> **"9. The term 'one-time measure' has to be understood in its proper perspective. This would normally mean that after the decision in** Umadevi, **each department or each instrumentality should undertake a one-time exercise and prepare a list of all casual, daily-wage or ad hoc employees who have been working for more than ten years without the intervention of Courts and tribunals and subject them to a process verification as to whether they are working against vacant posts and possess the requisite qualification for the post and if so, regularize their services.**
>
> 10. At the end of six months from the date of decision in *Umadevi*, cases of several daily-wage/ad-hoc/casual employees were still pending before Courts. Consequently, several departments and instrumentalities did not commence the one-time regularization process. **On the other hand, some Government departments or instrumentalities undertook the one-time exercise excluding several employees from consideration either on the ground that their cases were pending in Courts or due to sheer oversight. In such circumstances, the employees who were entitled to be considered in terms of Para 53 of the decision in** Umadevi, **will not lose their right to be considered for regularization, merely because the one-time exercise was completed without considering their cases, or because the six month period mentioned in para 53 of** Umadevi **has expired. The one-time exercise should consider all daily-wage/adhoc/those employees who had put in 10 years of continuous service as on 10.4.2006 without availing the protection of any interim orders of Courts or tribunals. If any employer had held the one-time exercise in terms of para 53 of** Umadevi, **but did not consider the cases of some**

employees who were entitled to the benefit of para 53 of Umadevi, **the employer concerned should consider their cases also, as a continuation of the one-time exercise. The one time exercise will be concluded only when all the employees who are entitled to be considered in terms of Para 53 of** Umadevi, **are so considered.**

11. The object behind the said direction in para 53 of *Umadevi* is two-fold. First is to ensure that those who have put in more than ten years of continuous service without the protection of any interim orders of Courts or tribunals, before the date of decision in *Umadevi* was rendered, are considered for regularization in view of their long service. Second is to ensure that the departments/instrumentalities do not perpetuate the practice of employing persons on daily-wage/ad-hoc/casual for long periods and then periodically regularize them on the ground that they have served for more than ten years, thereby defeating the constitutional or statutory provisions relating to recruitment and appointment. **The true effect of the direction is that all persons who have worked for more than ten years as on 10.4.2006 (the date of decision in** Umadevi) **without the protection of any interim order of any Court or tribunal, in vacant posts, possessing the requisite qualification, are entitled to be considered for regularization. The fact that the employer has not undertaken such exercise of regularization within six months of the decision in** Umadevi **or that such exercise was undertaken only in regard to a limited few, will not disentitle such employees, the right to be considered for regularization in terms of the above directions in** Umadevi **as a one-time measure."**

(Emphasis supplied)

58. What can be deduced from paragraph 53 of *Umadevi* (supra), as clarified in *M.L. Kesari* (supra), is that the Union of India and the State Governments were directed to undertake a one-time exercise to regularize employees who had worked for ten years or more in duly sanctioned posts, without the protection of Court or tribunal orders. This direction was to be implemented after the decision in *Umadevi* (supra), *i.e.*, after 10th

April, 2006. The exception carved out in paragraph 53 was therefore intended to operate prospectively and within the framework laid down therein.

59. In our considered view, the reliance placed by the Division Bench on *Umadevi* (supra) and *M.L. Kesari* (supra) was misplaced in the facts of the present case. **Paragraph 53 of *Umadevi* (supra) carved out a limited exception for those employees who had worked for more than ten years in duly sanctioned posts without the protection of Court orders. However, the appellants were not seeking regularization on the basis of that one-time exception. Their claim is rooted in the Cabinet decision dated 22nd July, 2005, by which the State consciously decided to regularize the services of Work Charged and Muster Roll workers engaged prior to 1st April, 1993, and pursuant to which nearly 30,000 similarly situated employees were in fact regularized by creation of posts. The appellants claimed parity with that very class and sought equal treatment under Article 14 of the Constitution. The issue, therefore, is not one of invoking the limited exception carved out in *Umadevi* (supra), but of ensuring that employees who stand on the same footing are treated alike.**

60. It is a settled principle that equals must be treated equally, and if persons similarly placed are treated differently without a rational basis, it would amount to a violation of Article 14 of the Constitution[11]. If two sets of employees stand on the same footing in terms of date of engagement, nature of duties, length of service and eligibility under a declared policy, the State cannot extend a benefit to one large group and deny it to the smaller group without demonstrating a valid distinction. Equality does not allow selective or partial implementation of a policy. Once a policy decision is taken to benefit a defined class, it must be applied uniformly to all who satisfy the prescribed conditions.

61. In the present case, the State itself framed a policy in 2005 to regularize Work Charged and Muster Roll workers engaged prior to 1st April, 1993. Pursuant to the aforesaid policy decision, approximately 30,000

workers were regularized. The appellants belong to that very category. They were engaged prior to the cut-off date and have rendered long and continuous service in the same manner as those who were regularized. There is no distinguishing feature shown which separates them from the beneficiaries of the 2005 decision. Once the State chose to regularize such a large body of workers forming one identifiable class, it was under a constitutional obligation to treat all eligible members of that class alike. The remaining workers who were left out, though otherwise eligible, cannot be excluded and denied the same benefit. It is crucial to note that the exclusion of the appellants from being granted the benefit of the 2005 decision is not attributable to the appellants but is rather predicated in the actions of the State machinery which, on account of inadvertent errors or clerical mistakes, did not include the appellants in the list of beneficiary covered by the said government decision.

62. Recently, in *Pawan Kumar* v. *Union of India*[12] this Court considered a similar situation wherein certain employees had been regularized but others, though similarly placed, were left out. This Court held that such differential treatment was discriminatory and accordingly granted the same relief to the excluded employees.

63. Once the State confers a benefit upon a particular class, it cannot arbitrarily deny the same benefit to others who are identically situated. Applying the principle in the present case, the State, having regularized nearly 30,000 workers under its own policy decision, could not refuse to regularize the remaining eligible workers who stood on the same footing. To do so amounts to treating equals unequally, which is impermissible under Article 14 of the Constitution.

64. The present appeals could have been allowed on the basis of discussion made hereinabove, as the unequal and arbitrary treatment meted out to the appellants is apparent on the face of the record. However, the facts and circumstances of the present case necessitate certain observations regarding the manner in which the State has handled the issue of

regularization. The way in which assurances were extended, policies were formulated and partially implemented, and thereafter altered, warrants closer scrutiny so as to ensure adherence to the standards of fairness and accountability expected of the State and its instrumentalities.

65. It is not in dispute that nearly 30,000 workers were regularized pursuant to the Cabinet decision dated 22nd July, 2005. However, as noted above, due to administrative lapses and clerical omissions on the part of the State, several eligible workers, including the appellants, were left out of the exercise. This led to the filing of multiple writ petitions before the High Court. In those proceedings, particularly in *Ramani Deka* (supra) and connected matters, the State, through affidavits sworn by the Chief Secretary and other senior officers, expressly acknowledged that a substantial number of workers engaged prior to 1st April, 1993 had been left out in the exercise of regularization. The Court was informed that the Government was actively considering their cases and that an appropriate policy would be framed within a stipulated period, with the outcome likely to be in favour of such workers. Acting upon these categorical representations, the High Court passed an order requiring the State to take consequential steps.

66. In this backdrop, the subsequent filing of a Miscellaneous Application seeking nod from the High Court to implement the very policy under consideration, on the ground that the law laid down in *Umadevi* (supra) created a legal embargo on such regularization, appears wholly unwarranted. **It is not as though the State was unaware of the decision in *Umadevi* (supra) at the time it furnished undertakings before the High Court. The judgment in *Umadevi* (supra) had already been delivered in April 2006. The undertakings given by the State before the High Court, acknowledging the existence of a large number of left-out workers and committing to frame a policy for their regularization, were furnished much thereafter. This clearly indicates that the State was fully conscious of the decision in *Umadevi* (supra) and its implications at the time it made those representations. If the State genuinely apprehended any legal impediment arising from *Umadevi* (supra), it ought to have raised such concerns at the first instance. Instead, it continued to**

assure the Court that a policy for regularization of left-out workers was under active consideration. It was only in 2012 that the State sought leave of the Court, citing *Umadevi* (supra) as a hurdle. The 2012 O.M. appears to have been designed in a manner that effectively defeats and dilutes the very object and purpose of the Cabinet decision dated 22nd July, 2005. Once the Cabinet had taken a considered decision and acted upon it for a large number of employees, it was incumbent upon the State to act in furtherance thereof fully, and not to introduce measures that undermine or circumvent it. The State which is expected to act as a model employer cannot be permitted to resile from, or seek shelter against its own decisions through subsequent executive decisions. To allow such a course would be contrary to principles of administrative fairness, consistency, and good governance.

67. The conduct of the State must also be examined in light of its status as a model employer. The State is under a higher constitutional obligation to ensure that its actions are just, reasonable and non-arbitrary. Recently, this Court in *Bhola Nath* v. *State of Jharkhand*[13] reiterated that the State, as a model employer, bears a heightened constitutional obligation in the discharge of its functions. It must act with probity, fairness and candour, and cannot cloud the disputes involving its employees under narrow technical grounds divorced from their broader constitutional context. A model employer is expected to uphold the dignity of its employees more so who are at the lowest pedestal of the hierarchy and to avoid exploiting their vulnerability or precarious position. This obligation flows directly from the Constitution and is not discretionary. Constantly giving undertakings before a constitutional Court and thereafter resiling from them does not comport with the standards expected of a model employer. An undertaking recorded by a Court is not a casual statement, but is a solemn representation on the basis of which judicial orders are passed. The State cannot approbate and reprobate. It cannot, on the one hand, secure time and indulgence from the Court on the assurance that a policy will be implemented and, on the other, avoid implementation by citing precedents that

were already in existence at the time the undertakings were furnished.

68. The repeated undertakings given by the State before the High Court, coupled with the earlier implementation of the Cabinet decision in favour of nearly 30,000 similarly situated workers, clearly gave rise to a legitimate expectation in the minds of the appellants who were deprived of the benefits of the policy. In the maze of administrative deficiencies, they were entitled to expect that the policy decision would be implemented in a fair, complete and non-discriminatory manner, and that their cases would also be considered as part of the same exercise. Though legitimate expectation does not create a vested right, it is firmly rooted in the principles of fairness and non-arbitrariness that flows from Article 14 of the Constitution.

69. A three-judge bench of this Court in *National Buildings Construction Corporation* v. *S. Raghunathan*[14] explained the doctrine of legitimate expectation in the following terms:—

> "The doctrine of "legitimate expectation" has its genesis in the field of administrative law. **The Government and its departments, in administering the affairs of the country, are expected to honour their statements of policy or intention and treat the citizens with full personal consideration without any iota of abuse of discretion. The policy statements cannot be disregarded unfairly or applied selectively. Unfairness in the form of unreasonableness is akin to violation of natural justice. It was in this context that the doctrine of "legitimate expectation" was evolved which has today become a source of substantive as well as procedural rights.** But claims based on "legitimate expectation" have been held to require reliance on representations and resulting detriment to the claimant in the same way as claims based on promissory estoppel."
>
> (Emphasis supplied)

70. The principle laid down in the aforesaid decision applies to the present case as well. The State's own policy decision and subsequent undertakings before the High Court constituted clear representations that the cases of the left-out workers would be duly considered. The State could not thereafter retract from its earlier position in a selective or inconsistent manner.

71. Even otherwise, as correctly observed by the learned Single Judge, there was no requirement for the State to seek permission of the Court to implement its own policy decision. The Full Bench in *Jitendra Kalita* (supra) had itself observed that any solution to the issue of regularization must be undertaken by the State as a policy measure. Regularization, where permissible in law, is an executive function. It falls within the domain of policy and administration. Courts do not grant prior approval to executive decisions. The role of the Court is confined to judicial review, that is, to examine whether a policy or action is constitutionally valid, fair and reasonable. It is not for the Court to authorise the executive to exercise powers which already vest in it.

72. We find merit in the observation of the learned Single Judge that seeking permission in the manner done by the State amounted, in effect, to a surrender of its executive authority. The executive cannot abdicate its responsibility by placing the burden upon the Court to approve or disapprove the implementation of its own policy. Once a Cabinet decision had been taken and implemented in major proportions, and once undertakings had been given before a constitutional Court, the State was expected to act in furtherance of its intent expressly declared in the policy, subject of course to constitutional confines. The course adopted by the State, in the facts of the present case, was neither necessary nor justified.

73. As regards the contention of Shri Gupta that after the decision in *Umadevi* (supra) no regularization can be effected in respect of employees who were not appointed against duly sanctioned posts, we are unable to accept such a sweeping proposition in the facts of the

present case. The submission proceeds on the premise that *Umadevi* (supra) lays down an absolute and inflexible embargo against all forms of regularization irrespective of the surrounding circumstances. Such an interpretation, in our considered view, does not reflect the true scope and ratio of the decision.

74. This Court in *Jaggo* (supra), deprecated the tendency of the State to take mechanical shelter under *Umadevi* (supra) to deny relief to employees who had been performing work of a permanent and essential nature for long years. This Court observed as follows:—

> "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.
>
> **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*, 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.

22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. **When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.**

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

- **Misuse of "Temporary" Labels**: Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often 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)

75. Recently, this Court in *Bhola Nath* (supra) while relying on the judgment of *Jaggo* (supra), *Shripal* (supra), and *Dharam Singh* (supra) observed as follows:—

> "13.6. This Court has, on several occasions, deprecated the practice adopted by States of engaging employees under the nominal labels of "part-time", "contractual" or "temporary" in perpetuity and thereby exploiting them by not regularizing their positions. In *Jaggo* v. *Union of India*, this Court underscored that **government departments must lead by example in ensuring fair and stable employment, and evolved the test of examining whether the duties performed by such temporary employees are integral to the day-to-day functioning of the organization.**
>
> 13.7 In *Shripal* v. *Nagar Nigam*, and *Vinod Kumar* v. *Union of India*, this Court cautioned against a mechanical and blind reliance on *Umadevi* (supra) to deny regularization to temporary employees in the absence of statutory rules. **It was held that** Umadevi **(supra) cannot be employed as a shield to legitimise exploitative engagements continued for years without undertaking regular recruitment**. The Court further clarified that *Umadevi* itself draws a distinction between appointments that are "illegal" and those that are merely "irregular", the latter being amenable to regularization upon fulfilment of the prescribed conditions.
>
> 13.8. In *Dharam Singh* v. *State of U.P.*, this Court strongly deprecated the culture of "ad-hocism" adopted by States in their capacity as employers. **The Court criticised the practice of outsourcing or informalizing recruitment as a means to evade regular employment obligations, observing that such measures perpetuate precarious working conditions while circumventing fair and lawful engagement practices.**

> 13.9. **The State must remain conscious that part-time employees, such as the appellants, constitute an integral part of the edifice upon which the machinery of the State continues to function. They are not merely ancillary to the system, but form essential components thereof. The equality mandate of our Constitution, therefore, requires that their service be reciprocated in a manner free from arbitrariness, ensuring that decisions of the State affecting the careers and livelihood of such part-time and contractual employees are guided by fairness and reason**."
>
> (Emphasis supplied)

76. What emerges from the principles enunciated in the aforesaid decisions is that the State cannot rely upon the mere form of engagement to deny fair and equitable treatment to employees who have served it for long years. The consistent thread running through these judgments is that *Umadevi* (supra) cannot be invoked as a blanket barrier to justify prolonged and continued engagements of a temporary or ad hoc nature, especially where the employees have been discharging essential and recurring functions of the State. The Court has repeatedly emphasised that the distinction between "illegal" and "irregular" appointments must be kept in view, that long and continuous service is a relevant consideration, and that the State, as a model employer, is under a constitutional obligation to act with fairness, consistency and reasonableness. The practice of retaining employees for decades under deceptively titled designations, while simultaneously extracting regular work integral to the administration, has been disapproved consistently.

77. Applying these principles to the present case, it is evident that engaging workers on muster rolls was a consistently employed policy of the State which continued for prolonged period of time. The appellants were not engaged for sporadic or seasonal purposes but were taken on muster rolls and have rendered continuous service for decades in departments performing regular

> **governmental functions. The State itself acknowledged the magnitude of the issue and framed a Cabinet policy to regularize similarly situated workers, acting upon it in respect of nearly 30,000 employees. In such circumstances, to deny consideration to the fraction of remaining eligible workers including the appellants, by taking shelter under a rigid reading of *Umadevi* (supra) would defeat the very principles of fairness and non-arbitrariness that this Court has consistently upheld.**
>
> **78. In the aforesaid backdrop, we are unable to accept the contention of the State that the appellants cannot be granted regularization on the ground that they were not initially appointed against duly sanctioned posts. The State, having engaged the appellants prior to 1st April, 1993, utilised their services continuously for decades, and having itself framed and implemented a Cabinet policy regularizing nearly 30,000 similarly situated workers, cannot now exclude the appellants by taking shelter behind a rigid or technical reading of *Umadevi* (supra). In absence of any cogent distinction or reasoned decision justifying such exclusion, the action of the State is manifestly arbitrary. It is inconsistent with its obligation to function as a model employer and does not withstand scrutiny under Article 14 of the Constitution."**

The said judgment was rendered on 21-05-2026.

9.8. Subsequent to the said judgment, the Apex Court, again, in the case of **BHIKHANI DEVI v. UNION OF INDIA**[8], while considering whether a temporary status casual labourer would be entitled to pensionary benefits on superannuation in the absence of a formal order of regularization, observes as follows:

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[8] **2026 SCC OnLine SC 1055**

"…. …. ….

32. Having heard the counsel for both the parties and on perusal of pleadings and material on record, **the issue that arises for consideration can be carved out as follows:**

'Whether temporary status casual labourer, in the absence of a formal order of regularisation, would be entitled to pensionary benefits on superannuation or not?'

33. Before adverting to the above question and interpreting the Scheme involved in the present factual matrix, we find it apposite to delineate the legal framework governing the rights of casual and temporary employees. This Court has over the years developed jurisprudence concerning rights of casual labourers and temporary employees which needs to be adverted to.

34. In *Jagrit Mazdoor Union* (supra), this Court held that upon conferment of temporary status and completion of three years of continuous service, casual labourers are to be treated at par with Group 'D' employees and would thereby be entitled to such benefits admissible to regular employees. The Court observed that there could be no justification in withholding benefits from such employees and emphasised the obligation of the State, as a model employer, to act in consonance with the Directive Principles of State Policy as provided in the Constitution of India.

35. Further, in *Vinod Kumar* (supra), this Court recognised that where employees have rendered continuous service, performing duties indistinguishable from those discharged by regular employees, the distinction between temporary and permanent employment becomes substantively illusory and the failure to recognise the true nature of such service would be contrary to the principles of equity and fairness.

36. In *Jaggo* (supra), this Court reiterated that employees labelled as temporary or part-time, but who have in fact rendered continuous and essential service

over long periods, cannot be denied benefits available to regular employees merely on account of nomenclature. The Court held that such engagement is neither sporadic nor casual, but is in the nature of regular employment, thereby necessitating extension of all corresponding service benefits.

37. In this context, the principle laid down by this Court in *Yashwant Hari Katakkar* v. *Union of India*[6] also assumes significance, wherein this Court held that where an employee has rendered long years of service and there is no justifiable reason for not conferring permanent status, it would be a travesty of justice to deny pensionary benefits merely on the ground of absence of formal regularisation, and such an employee is liable to be treated as having attained permanent status.

38. Perusal of the above decisions of this Court establish a consistent judicial approach that long-serving employees, whether casual or temporary, particularly those who have been conferred a recognised status and extended benefits akin to regular employees, cannot be denied corresponding benefits including social security and pensionary benefits. The emphasis must be on ensuring that the State does not retain such employees in a precarious condition while extracting services identical to those performed by regular employees.

39. This approach is firmly rooted in the constitutional mandate of equality enshrined under Article 14 of the Constitution of India. Any classification, resulting in denial of any benefits to a class of employees who are otherwise similarly situated in terms of duties and responsibilities would fall foul of constitutional ethos. Further, the Directive Principles of State Policy, particularly Articles 38, 39 and 43, cast a positive obligation upon the State to ensure social and economic justice, fair conditions of work, and a decent standard of life for labourers. Pension, in this context, is not a gratuitous benefit but a facet of social welfare and economic justice.

40. The concept of the State as a model employer, read in conjunction with the aforesaid constitutional mandate, reinforces the obligation upon the State to extend fair and equitable treatment to employees who have rendered long and continuous service and that the State cannot extract services of a permanent nature while denying corresponding benefits.

41. At this stage, it is also necessary to note that pension is not a bounty but a vested and enforceable constitutional right. This Court in *State of Jharkhand* v. *Jitendra Kumar Srivastava*[7] has categorically held that pension is a hard-earned benefit amassed by an employee by virtue of long and continuous service and is in the nature of "property" within the meaning of Article 300A of the Constitution of India.

42. Once pension is recognised as a constitutional right in the nature of property, it cannot be taken away except by authority of law. A statutory right cannot be rendered illusory on account of inaction of the employer, and such inaction cannot defeat or deny a constitutional right. It is in the light of this above discussed judicial approach of this Court over a period of time, the provisions of the Scheme and the subsequent applicable circulars must be read, understood and interpreted.

43. Let us, now, turn to the Scheme that is applicable to the facts of the present case. **The principles emanating from *Jagrit Mazdoor Union* (supra), as discussed hereinabove, are directly incorporated in formation of the said Scheme. The relevant portion of the decision is reproduced herein:**

> ***"…After rendering three years of continuous service with temporary status, the casual labourers shall be treated at par with temporary Grade 'D' employees of the Department of Posts and would thereby be entitled to such benefits as are admissible to Group 'D' employees on regular basis."***
>
> (**emphasis supplied**)

…. …. ….

55. It may be noted here that the Respondents contend that temporary status casual labourers are extended only the benefits that are specified in the Scheme and Circular dated 30.11.1992 and are not entitled for pensionary benefits. The said submission, in our considered opinion, is misconceived. **The expression "*benefits admissible to temporary Group 'D' employees such as*", made use of in the circular is of considerable importance. The utilisation of the words "such as" clearly indicates that the benefits enumerated therein are illustrative and neither restrictive nor exhaustive. This is also evident from the observations in *Jagrit Mazdoor Union* (supra), which form basis of the Scheme and Circular dated 30.11.1992, and provides to extend all benefits as admissible to temporary Group 'D' employees without any restrictions. Therefore, the circular, as earlier observed, being a beneficial legislation, cannot be read and understood in a restrictive manner rather the correct approach of interpretation would be to analyse it in the letter and spirit of the legislative and administrative intent i.e. to extend all benefits as are available to temporary Group 'D' employees, to temporary status casual labourers including pensionary benefits.**

56. Before proceeding further, it becomes necessary to deal with another contention advanced on behalf of the Respondents that Clause 6 of the Scheme contemplates counting of 50% service rendered under temporary status towards retirement benefits only after formal regularisation as Group 'D' employee and, therefore, in the absence of regularisation, no pensionary benefits can be granted. The said submission cannot be accepted in the manner sought to be canvassed. Clause 6 cannot be read in isolation divorced from the principles and purpose underlying the Scheme and the circular dated 30.11.1992. **The judgment of this Court in *Jagrit Mazdoor Union* (supra), which forms the basis of the Scheme itself, categorically directed that upon completion of three years of continuous service under temporary status, casual labourers 'would thereby be entitled to benefits as are admissible to Group 'D' employees on regular basis'. The circular dated 30.11.1992 further clarifies that such employees would**

be entitled to counting of service for pension and terminal benefits as admissible to temporary Group 'D' employees.

57. The expression "after regularisation" occurring in Clause 6 cannot be construed in a narrow or restrictive manner so as to defeat the beneficial object underlying the Scheme and must be construed in its proper context. Clause 6 does not create the pensionary entitlement itself, rather, it provides an additional benefit by directing that half of the service rendered under temporary status to be counted towards grant of retirement benefits upon regularisation. The pensionary entitlement of temporary status employees who have completed the prescribed period of service flows independently from the Scheme and the circular dated 30.11.1992. Clause 6 has to be interpreted harmoniously and would construe to mean that in cases where formal orders of regularisation are passed, 50% of the service rendered under temporary status would be liable to be counted towards retirement and pensionary benefits as additional benefit apart from the benefits as available under the rules which become applicable to a regular government employee. Consequently, while Clause 6 may operate to confer an additional advantage in cases where regularisation takes place, the absence of formal regularisation cannot be construed as extinguishing or defeating the underlying entitlement to pensionary benefits.

58. At this stage, it also becomes necessary to appreciate the distinction between different categories of employees engaged within the service framework in the Department of Posts. Broadly, four categories of employees emerge from the statutory and administrative work structure involved in the matter at hand, namely: (i) casual labourers; (ii) temporary status casual labourers; (iii) temporary Government employees; and (iv) regular Government employees.

59. A casual labourer is merely a daily-rated worker engaged on need basis and is entitled only to daily wages for the period during which work is performed. Such employee does not possess any structured service status nor entitled to any service benefits ordinarily available to Government employees.

60. The second category is that of a temporary status casual labourer. The conferment of temporary status not only initiates the process of integration of such employee within a structured service framework but extends certain service protections and benefits under the Scheme. Nevertheless, such employee remains a temporary status casual labourer and does not become a temporary Government servant.

61. The third category is that of temporary Government employees which are governed by the CCS (Temporary Service) Rules, 1965, while the fourth category comprises of regular Government employees governed by the regular service rules applicable to permanent Government servants.

62. It is to be noted that these aforesaid four categories are not to be conflated as stages required to be gone through to become a regular employee. It may be pointed here that a casual labourer can directly become a regular employee, if the Scheme provides for such transition. A temporary Government employee, however, definitely has two stages leading to permanent employment i.e. initial appointment as temporary Government employee and upon confirmation in service, his status is changed to regular government employee.

63. For casual labourers, the Scheme provides for a progression to regular employment. Initially the employee enters service as a casual labourer. Thereafter, upon satisfying the conditions prescribed under Clause 1 of the Scheme, he/she is conferred temporary status and continues under such status. Upon completion of the prescribed conditions and subject to the applicable Recruitment Rules, the employee becomes eligible for regularisation against Group 'D' posts and ultimately regularized and appointed as regular employee on availability of vacancies.

64. The Scheme, in question, which provides for grant of temporary status and regularisation for casual labourers recognises four categories of employees operating within the service structure, however, the progression contemplated therein essentially unfolds in three stages i.e. engagement as a casual labourer, conferment and continuance of temporary status, and eventual regularisation against Group 'D' posts.

65. It is apposite to highlight and emphasize that although under the Scheme the temporary status of casual labourers continues till his regularization in service, however, on completion of the period of three years, the service conditions are materially changed as he is treated at par with temporary Group 'D' employees and extended all benefits that are admissible to such employees.

66. The submission advanced on behalf of the Respondents, that under the Scheme the employees continue merely as temporary status casual labourers and are distinct from the temporary Government servants, and so would be the pensionary framework applicable. At first blush, this contention appears to be correct to an extent. However, on due consideration and deliberation of the Scheme and its various clauses as a whole, the submission aforesaid is found to be misplaced.

67. Although, it may be correct to say that conferment of temporary status on a casual labourer under the Scheme does not *ipso facto* transform such employee into a temporary Government servant, however, what falls short from the aforesaid submission is that while the status of such employee continues unchanged i.e., of a 'temporary status casual labourers', the Scheme consciously and specifically extends to such employees benefits admissible to temporary Group 'D' employees upon completion of three years of continuous service under temporary status. The service conditions, at this juncture, of the casual temporary status employee under the Scheme gets substantially changed and carries all the benefits that are available to temporary government employees. Therefore, while the nomenclature and category of their service status remain unchanged, the nature and extent of benefits now available to them stand significantly enlarged and aligned with those admissible to temporary Government employees, blurring the distinction between both categories as far as benefits available to them are concerned. The distinction that remains is one relating to nomenclature, formal status and mode of regularisation but not to the nature of extended benefits.

68. In other words, the Scheme nowhere provides that upon completion of three years' service under temporary status, the employee becomes a temporary Government servant. What it specifically provides is that such employee shall be treated at par with temporary Group 'D' employees for purposes of extension of admissible benefits. The parity contemplated under the Scheme is thus parity in service benefits and not identity of service status.

69. Once the Scheme and the circular dated 30.11.1992 consciously extend benefits admissible to temporary Group 'D' employees, the Respondents cannot rely solely upon the nomenclature of 'temporary status casual labourer' to deny those very benefits. The entire framework of the Scheme proceeds upon extension of substantive service benefits despite continuance of the original nomenclature as temporary status casual labourer.

70. As already discussed hereinabove, the Scheme and the circular dated 30.11.1992 extend to temporary status employees all the benefits that are available to temporary Group 'D' employees. Now, it becomes necessary to examine the nature of pensionary benefits available to such temporary Government employees under the statutory framework.

71. The services of the temporary Government servants are governed by the CCS (Temporary Service) Rules, 1965. It is not disputed that a temporary Government servant is entitled to terminal benefits including pension and on his death family pension. Rule 10(1-B) of the said Rules specifically provides that where a temporary Government servant retires on attaining the age of superannuation after rendering temporary service of not less than ten years, such employee shall be entitled to superannuation pension and retirement gratuity and on death family pension in accordance with the provisions of the CCS (Pension) Rules, 1972. Rule 10(1-B) is reproduced herein:

> "***10. Terminal gratuity payable to temporary Government servants.***

xxx xxx xxx

(1-B) In the case of a temporary Government servant who retires from service on attaining the age of superannuation or on his being declared to be permanently incapacitated for further Government service by the appropriate medical authority, after he has rendered temporary service of not less than 10 years or who has sought voluntary retirement by giving three months' notice in writing on completion of 20 years' service, provisions of sub-rule (1) shall not apply and in accordance with the provisions of the Central Civil Services (Pension) Rules, 1972-

(i) such a Government servant shall be eligible for the grant of superannuation, invalid or retiring pension, as the case may be, and retirement gratuity; and

(ii) in the event of his death after retirement, the members of his family shall be eligible for the grant of family pension.

xxx xxx xxx"

72. As is apparent from the above, the statutory framework governing temporary Government employees itself accepts and acknowledges entitlement of pensionary benefits and that the same are not confined only to regular permanent employees but are also available to temporary Government servants upon completion of the prescribed qualifying service. The CCS (Temporary Service) Rules, 1965 thus constitute the statutory source recognising pensionary entitlement of temporary employees who have rendered specified and continuous service.

73. The contention of the Respondents that the Appellants were paid out of contingencies and therefore stood excluded from the purview of the CCS (Temporary Service) Rules, 1965 also cannot be accepted in the particular facts of the present case. Such exclusion may have relevance at the stage of initial engagement as casual labourers. However, the service conditions of the Appellants underwent a substantial transformation upon

extension of benefits admissible to temporary Group 'D' employees. The continued reliance by the Respondents upon the original mode of engagement, while simultaneously extending pay parity, increments, GPF facilities, leave benefits and other service entitlements akin to temporary Group 'D' employees, would amount to selectively accepting one part of the Scheme while disregarding the other. Such an approach would defeat the very object underlying the Scheme and the circular dated 30.11.1992. Once parity in service benefits with temporary Group 'D' employees is consciously extended under the Scheme, pensionary benefits flowing under Rule 10(1-B) of the Rules of 1965 cannot be selectively denied by ignoring or overlooking the statutory right.

74. The argument founded upon financial burden is equally untenable. Pension is not a matter of grace dependent upon the financial convenience of the employer, but a deferred wage earned through long years of service. As already noticed hereinabove, this Court has recognised pension as a constitutional right in the nature of property protected under Article 300A of the Constitution of India as held in *Jitendra Kumar Srivastava Case* (supra) and it, therefore, cannot be denied on the plea of financial burden.

75. From the above discussion what follows is that when the statutory framework including CCS (Temporary Service) Rules, 1965 is read in conjunction with the Scheme and the circular dated 30.11.1992, the inescapable conclusion which emerges is that a casual labour, on being conferred the temporary status, upon completion of three years of continuous service as temporary status casual labourer becomes entitled to benefits admissible to temporary Group 'D' employees, which necessarily includes pensionary benefits available under Rule 10(1-B) of the CCS (Temporary Service) Rules, 1965 subject, of course, to fulfilling the eligibility criteria provided therein. This right is not dependent on regularisation. What is conceived is conferring of additional benefit of previous service under the Scheme as would be available to an employee on regularisation apart from the benefits conferred under the rules

becoming applicable on this now acquired new status of a regular employee.

76. The question as framed in para 32 above stands answered as follows:

'A temporary status casual labourer would be entitled to pensionary benefits on superannuation even in the absence of regularisation.'

77. What remains to be seen now is whether the Appellants, in the cases before us, fulfil the eligibility criteria under Rule 10 (1-B) of CCS (Temporary Service) Rules, 1965 so as to be entitled for pensionary benefits.

78. The service trajectory of Late Suraj Sah as per the material placed on record, thus falls into three distinct phases: (i) service as a casual labourer from 1972 till 29.11.1989; (ii) service as a temporary status casual labourer from 29.11.1989 till 30.11.1992; and (iii) continuance as a temporary status casual labourer with entitlement to benefits admissible to temporary Group 'D' employees from 30.11.1992 till his superannuation on 31.12.2008.

79. From the above what emerges is that Late Suraj Sah was initially engaged as a casual labourer in the year 1972 and continued as such till 29.11.1989. During this period, he remained a daily-rated worker and was not entitled to any service benefits. Upon introduction of the Scheme, he was conferred temporary status with effect from 29.11.1989. Thereafter, upon completion of three years of continuous service under temporary status on 30.11.1992, though his formal status continued to remain that of a temporary status casual labourer, he became entitled to the benefits admissible to temporary Group 'D' employees. Thus, while his nomenclature remained unchanged, his service benefits thereafter stood aligned with those admissible to temporary Group 'D' employees as per the Scheme and the circular dated 30.11.1992. He ultimately superannuated on 31.12.2008 while continuing as a temporary status casual labourer. So from 30.11.1992 till the date of superannuation i.e. 31.12.2008, the period being more than the minimum of

10 years, he became entitled for benefits under Rule 10(1-B) of the CCS (Temporary Service) Rules, 1965 read with the CCS (Pension) Rules, 1972. Thereby making him entitled to grant of superannuation pension and other retirement benefits as admissible under the above rules.

80. The service records of Bahuru Sahu and Pitamber Jha would also reflect that they were, after initial appointment as casual labourers, conferred temporary status, w.e.f. 29.11.1989 till 30.11.1992 and continued as temporary status casual labourers till their date of superannuation 30.04.2008 and 31.10.2015 respectively. The period being in excess of minimum qualifying service of ten years for entitlement of pension, they would be entitled to grant of all retiral benefits as available under the Rules.

81. Insofar as the contention of the Respondents with regard to delay and laches is concerned, it is well settled that pensionary benefits constitute a continuing cause of action, and a claim for pension cannot be defeated solely on the ground of delay. At the same time, the claim for arrears is required to be balanced with settled principles governing limitation. In the present case, nothing has been brought on record to indicate that the Appellants had raised any claim for pensionary benefits prior to filing of the respective Original Applications before the Tribunal. In such circumstances, while the entitlement of the Appellants to pensionary and consequential retiral benefits stands established, the arrears thereof, wherever applicable, shall remain confined to the period of three years and two months preceding the date of filing of the respective Original Applications before the Tribunal, consistent with settled principles governing service jurisprudence."

(Emphasis supplied at each instance)

10. In **AMARENDRA KUMAR MOHAPATRA** *supra,* the Apex Court undertook a detailed reconciliation of **UMADEVI** with

STATE OF KARNATAKA vs. M.L.KESARI reported in **(2010) 9 SCC 247**, elucidating why regularization must necessarily follow once an employee has completed 10 years of service while being otherwise qualified.

11. **The first discernable departure from the rigid contours of UMADEVI was in the case of 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. **This exposition was further amplified in 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. The reasoning finds further affirmation in the case of **PREM SINGH** *supra.*

12. 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.

13. **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 Apex 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 Apex 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** *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.

14. **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 Apex 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.

15. **What unmistakably emerges from the afore-quoted pronouncements 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.

16. **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 for the appellant, merits acceptance **as the petitioner in the present case retired while her 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.** 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.

17. In the case of **SUKHENDU BHATTACHARJEE,** the Apex Court considers the interplay between the Constitution Bench judgment in **UMADEVI**, the exception carved out in paragraph 53 thereof, and the constitutional guarantee of equality under Article 14. The controversy arose when nearly 30,000 work-charged and

muster-roll employees were regularized pursuant to a policy decision of the State, while several identically situated employees were excluded owing to administrative lapses and clerical omissions.

17.1. The Apex Court holds that **UMADEVI** cannot be construed as imposing an absolute and inflexible embargo upon regularization in every conceivable circumstance. The object of **UMADEVI** was to prevent illegal appointments and backdoor entries into public employment, and not to furnish the State with a convenient shield to perpetuate arbitrary treatment of employees who had rendered long and continuous service.

17.2 The Apex Court draws a distinction between a claim founded upon the one-time exception under paragraph 53 of **UMADEVI** and a claim founded upon equal treatment under an existing policy of regularization. Where the State has consciously regularized one class of employees, it cannot arbitrarily exclude other employees who are identically situated in the matter of appointment, nature of duties, length of service and eligibility. Such selective regularization would fall foul of Article 14.

17.3. The Apex Court further emphasizes that the State, as a model employer, cannot extract labour for decades, hold out assurances of regularization and thereafter invoke technicalities to defeat the legitimate expectations of its employees.

18. In **BHIKHANI DEVI,** the Apex Court considers whether a casual labourer who had been conferred temporary status and had subsequently attained superannuation without formal regularization could be denied pensionary and retiral benefits. Tracing the development of service jurisprudence through **JAGRIT MAZDOOR UNION (REGD.) v. MAHANAGAR TELEPHONE NIGAM LTD.** reported in **1990 Supp SCC 113**; **VINOD KUMAR v. UNION OF INDIA** reported in **(2024) 9 SCC 327; JAGGO** *supra* and **YASHWANT HARI KATAKKAR v. UNION OF INDIA** reported in **(1996) 7 SCC 113**, the Apex Court holds that the nomenclature attached to an employee's engagement cannot, by itself, determine the substantive benefits to which such employee is entitled. The Apex Court observes that pension is neither a bounty nor an act of governmental generosity. It is a hard-earned benefit flowing from

qualifying service and, where legally accrued, constitutes property protected under Article 300A of the Constitution of India.

19. **On a conspectus of the law declared by the Apex Court in the afore-quoted judgments, what would unmistakably emerge is that the nomenclature attached to an employee's engagement, be it temporary, contractual, daily-wage or on consolidated pay, cannot, by itself, become the determinative factor in considering the claim for regularization. Where an employee, otherwise qualified to hold the post, has rendered ten years or more of continuous service against a duly sanctioned vacancy, without the protective umbrella of orders of Courts or Tribunals, the claim for regularization warrants consideration within the parameters delineated in UMADEVI and its subsequent exposition. The constitutional philosophy underlying these judgments is that the State cannot, on the one hand, extract the labour of an employee for decades together, discharging duties which are perennial and integral to its functioning, and, on the other, deny even consideration of regularization**

by taking refuge under the nomenclature of the engagement. The State cannot have the benefit of permanent labour under the guise of temporary employment, nor can it convert the vulnerability of an employee into a perpetual instrument of administrative convenience. To deny consideration of regularization merely because the employee has, in the meantime, attained the age of superannuation, would be to permit the State to reap the fruits of decades of labour and thereafter wash its hands of the obligations that may have accrued during the subsistence of such employment. Such an approach would lend judicial imprimatur to an exploitative engagement of human labour, a course that would be wholly antithetical to the constitutional ideals of fairness, dignity and social justice.

20. The Apex Court, in the afore-quoted judgments, has underscored that the mere attainment of the age of superannuation cannot, by itself, become a reason to defeat accrued service-related entitlements or to decline consideration of a claim that had arisen during the currency of employment. **The right to seek**

consideration of regularization, where otherwise available in law, does not evaporate into thin air upon the employee crossing the threshold of superannuation. Retirement may bring the relationship of employment to an end; it does not necessarily bring to an end the legal consequences of an unlawful denial of benefits during that employment. An employee who has devoted the prime of her youth and the greater part of her working life to the service of the State cannot be shown the door at the twilight of her career, with nothing to show for decades of toil, merely because the State chose to perpetuate her engagement on daily wages. Such treatment, where the employee was otherwise entitled to regularization, would be unfair in its conception, unjust in its operation and unconscionable in its consequences. It would reduce public employment to an arrangement under which the State secures the labour of an employee during the most productive years of her life, but denies the attendant security and benefits when they are most needed. The judgment in **UMADEVI** cannot be pressed into service as an all-purpose shield to justify such prolonged precarious

engagements. It was a judgment intended to preserve constitutional discipline in public recruitment, not a licence to perpetuate exploitation under the protective cloak of constitutional legality. **The State, which is expected to be a model employer, cannot be permitted to transform a constitutional safeguard against illegal appointments into a weapon against employees whose services it has continuously utilized for decades.**

21. If the facts obtaining in the case at hand are considered on the bedrock of the principles so enunciated by the Apex Court, the arbitrariness in the treatment meted out to the appellant becomes writ large. The appellant did not enter service through any backdoor arrangement. Her name was drawn from the list maintained by the Employment Exchange, pursuant to a process initiated by the respondent-State. The appointment was against a duly sanctioned and vacant post, with the policy of reservation being given effect to, as the appellant belongs to the Scheduled Caste community. **The appellant thereafter continued to serve the Municipality for 34 long years, discharging duties in**

different capacities, including those of a Typist and a Computer Operator. The Municipality itself found her services worthy of regularization and forwarded recommendations to that effect.

22. The recommendations did not remain wholly unacted upon, for, out of 26 employees whose names were forwarded, 12 were extended the benefit of regularization. The appellant, however, was left behind, notwithstanding her long years of service and the recommendation made in her favour. The State thus drew a line between employees who stood on the same footing, extending the benefit of regularization to some while leaving the appellant to languish in the uncertainty of daily-wage employment. No justifiable distinction warranting such differential treatment is forthcoming from the material placed before this Court. The conduct of the State, which ought to have been a model employer, falls woefully short of the constitutional standards of fairness and non-arbitrariness.

23. The learned Single Judge, in the considered view of this Court, ought to have examined these circumstances rather than

non-suiting the appellant on the solitary ground that she had attained the age of superannuation. The appellant's retirement did not erase the 34 years of service rendered by her; neither did it obliterate the claim that had arisen long before her retirement. The learned Single Judge, therefore, fell into error in declining to examine the claim on its merits merely because the appellant had superannuated.

24. The cumulative effect of the afore-narrated facts, viewed through the prism of the law declared by the Apex Court, leaves little room for doubt that the appellant has made out a case for relief. The appellant's entry into service through the Employment Exchange, her appointment against a sanctioned vacancy, the uninterrupted service rendered for 34 years, the recommendations made for regularization, and the extension of that very benefit to similarly situated employees constitute circumstances which, taken together, demonstrate the manifest arbitrariness of her exclusion. This is not a case where an employee seeks to secure regularization merely by invoking the length of service. It is a case where the State, having initiated the process of appointment, utilized the

services of the appellant for decades, recommended her regularization and regularized others similarly situated, seeks to deny her the same benefit by invoking the very passage of time during which her claim remained unattended.

25. In the peculiar and compelling circumstances obtaining in the case at hand, this Court is of the considered view that a mere *mandamus* directing the respondents to reconsider the claim of the appellant would be an inadequate remedy. Such a direction would only consign the appellant, now a superannuated employee, to yet another round of administrative consideration and, possibly, another journey to the doors of this Court. The law does not demand that a litigant, who has already spent decades pursuing a legitimate claim, be condemned to an endless cycle of representations, rejections and litigation. Justice, to be meaningful, must not merely recognize a wrong; it must, where the facts and law so warrant, furnish an effective remedy for that wrong. The appellant is, therefore, entitled to a direction for regularization of her services with consequential service and retiral benefits, to be worked out in accordance with the applicable rules.

26. Before parting, this Court deems it necessary to remind the respondent-State of its solemn obligation as a model employer. The State must not become an exemplar of the very exploitation which the Constitution commands it to prevent. It cannot retain employees on daily wages for the greater part of their working lives, deny them the security of regular employment, and thereafter compel them to spend the evening of their lives in the corridors of Courts seeking recognition of services rendered over decades. The respondents would do well to ensure that such instances do not recur, for constitutional governance demands not merely obedience to judicial directions after litigation, but fairness in administrative action before litigation becomes inevitable.

27. For the aforesaid reasons, the following:

ORDER

(i) The Writ Appeal is allowed.

(ii) The order dated 29-08-2025, passed by the learned Single Judge in W.P.No.105093 of 2022, stands set aside.

(iii) The appellant shall be entitled to regularization of her services in the cadre in which she was working at the time of attaining the age of superannuation, with effect from the date on which she completed ten years of service, i.e., 11-02-1998, together with all consequential benefits flowing therefrom.

(iv) It is made clear that the consequential benefits to which the appellant shall be entitled would include notional continuity of regular service from the date of completion of ten years of service, for the purposes of pay fixation and all other admissible service benefits. The entire period of 34 years of service rendered by the appellant shall be reckoned for the purpose of determination and computation of pension, gratuity and all other admissible terminal and retiral benefits. The respondents shall accordingly undertake the necessary exercise of refixation of pay and determination of consequential benefits.

(v) The respondents shall pass appropriate orders regularizing the services of the appellant and giving effect to the directions issued hereinabove, within an outer limit of eight weeks from the date of receipt of a copy of this order.

(vi) In the event of failure to comply with the aforesaid direction within the stipulated period, the appellant shall, in addition to the benefits directed hereinabove, become entitled to arrears of wages quantified at 50% of the salary entitlement flowing from such regularization, as a consequence of non-compliance with the directions of this Court.

Ordered accordingly.

Sd/-
(M.NAGAPRASANNA)
JUDGE

Sd/-
(HEMA KULKARNI)
JUDGE

BKP
CT: VH