

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WA No. 117 of 2023

1. The Sangeet Natak Akademi, represented by its Secretary, Rabindra Bhawan, Feroze Shah Road, New Delhi-110001.
2. The Jawaharlal Nehru Manipur Dance Academy, Imphal through its Director, D.M. College Campus, P.O & P.S. Imphal-795001.
3. The Director of Jawaharlal Nehru Manipur Dance Academy, Imphal, D.M. College Campus, P.O & P.S. Imphal-795001.

.... Appellants

-Versus-

1. Th. Hemchandra Singh, aged about 53 years, S/o (L) Th. Thambalngou, of Luwangsangbam Matai, P.O. Mantripukhri P.S. Heingang, Imphal, West District, Manipur.
2. N. Surendrajit Singh aged about 50 years S/o (L) N. Manihar Singh of Wangkhei Ningthem Pukhri Manpal, P.O & P.S. Porompat, Imphal East District, Manipur.
3. G. Chandan Devi aged about 44 years, D/o G. Shantikumar Sharma of Khagempalli Ningom Leirak, P.O & P.S. Imphal, Imphal West District, Manipur.
4. H. Shannila Devi aged about 53 years D/o (L) H. Kuno Sharma of Wangkhei Ningthem Pukhri Mapal P.O & P.S. Porompat, Imphal East District, Manipur.

.... Respondents

B E F O R E
HON'BLE THE CHIEF JUSTICE MR. SIDDHARTH MRIDUL
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU KABUI

For the appellants : Mr. Sarvan Kumar, Advocate
For the respondents: Mr. HS. Paonam, Sr. Advocate
Date of hearing : 23.10.2024
Date of order : **20.11.2024**

JUDGMENT & ORDER
(CAV)

(Golmei Gaiphullshilu, J)

[1] Heard Mr. Sarvan Kumar, learned counsel appearing on behalf of the appellants and Mr. HS. Paonam, learned sr. counsel appearing on behalf of the respondents.

[2] The present writ appeal has been filed by the State Appellants under Rule 3(2) of Chapter IV-A read with Chapter-VII of the Manipur High Court Rules, 2019 against the impugned Judgment and Order dated **07.07.2023** passed in **WP(C) No. 372 of 2022** by the Hon'ble Single Judge with the following prayer:

- (i) to allow this Writ Appeal and set aside, reverse or revise the impugned judgment dated 07.07.2023;*
- (ii) to grant interim stay on the impugned judgment dated 07.07.2023 in WP(C) No. 372 of 2022.*
- (iii) to pass any other or further order or direction as may be deemed fit and proper on the facts and in the circumstances of this case in the interest of justice.*

[3] The above referred to **W.P.(C) No. 372 of 2022** was filed by the respondents/petitioners to quash the impugned order dated 17.05.2022 passed by the second respondent/appellant no. 2 and to direct the appellants to consider the case of the respondents/petitioners for regularization against the available vacancy of Dancer in the Jawaharlal Nehru Manipur Dance Academy (JNMDA).

[4] The case of the respondents/petitioners is that they were initially engaged as Artiste/Guru/Dancer in JNMDA on consolidated pay and thereafter, they were engaged as contract Dancer on the recommendation of the Selection Committee with the prescribed pay scale of Dancer. The respondents have been associated with the JNMDA for more than 20 years. However, without considering the factual position, the second appellant issued the impugned order rejecting the claim of the respondents for regularization to the post of Dancer. Challenging the same, the respondents filed the above referred WP(C) No. 372 of 2022.

[5] According to the learned counsel for the respondents, they have been engaged in JNMDA for the last about more than 20 years as Artiste/Guru/Dancer in the JNMDA without any break and admittedly possess the requisite qualification for the said post. Even though the respondents/petitioners were engaged on contract basis, they were during the entire relevant period rendering service of regular

Dancers in JNMDA. In recognition of their service, the respondents have been allowed to enjoy the regular pay scale and not consolidated pay, on the recommendation of the Selection Committee since February, 2010 with the approval of the competent authority. The respondents are continuing against the vacant post without any complaint from any quarter. It is further submitted that when the term of the contract engagement of the respondents was about to expire and owing to non-availability of Chairman of the Academy and the Advisory Board which was not functional at the time and also apprehending that there may be an issue in the extension of the contract engagement, the respondents filed WP(C) No. 74 of 2022 before this Court, seeking a direction to consider their case for regularization against the available vacancy of Dancer coupled with a prayer not to oust them from service. It would further be submitted that vide order dated 31.01.2022, this Court disposed of the said writ petition with a direction to the respondents to consider upon receipt of the representation the respondents' case and further the appellants were directed to dispose of the said representation by giving personal opportunity. In the said order, it was also directed not to oust the respondents from service pending consideration of the representation.

Operative portion of the order dated 31.01.2022 passed in WP(C) No. 74 of 2022 reads as follows;

"[7] Therefore, without going into the merits and demerits of the petitioners' case, I am inclined to pass the following orders:

- (a) This writ petition is disposed of.*
- (b) The petitioners are directed to give appropriate representation to the respondents within a period of 2(two) weeks from the date of receipt of this order and on receipt of the said representation, within the stipulated period of time, the respondent Nos. 1 & 2 are directed to dispose of the representation by giving personal opportunity and to pass appropriate speaking orders.*
- (c) The said exercise shall be done within a period of 8 (eight) weeks from the date of receipt of a copy of this order thereafter.*
- (d) Till such time, the respondents are directed not to oust the petitioners from their service."*

[6] The learned senior counsel for the respondents further submitted that pursuant to the direction of this Court, on 04.03.2022, the respondents/petitioners have submitted a representation for affording regularization to the post of Dancer. While so, without considering the factual position, the second appellant issued the impugned order rejecting the claim of the petitioners. Drawing this Court's attention to the orders dated 22.06.2028 in respect of some of the similarly situated persons, the learned senior counsel submitted that in the case of some similarly situated persons, who entered into service as Artists on consolidated basis and subsequently engaged on contract basis with pay scale, were given regularization to the post of Dancer in the Academy. He further submits that the respondents/petitioners are in great hope that their services will be regularized as Dancer and the respondents have rendered half of their prime life in the role of Artiste/Guru/Dancer in the Academy. Therefore, the case of the

respondents may be considered for regularization against the post held by them and such consideration of the respondents would not involve any extra financial implication as they were already enjoying the prescribed pay scale for the post. While stating that there is necessity of service of the respondents in their letter addressed to the Secretary, Sangeet Natak Akademi, New Delhi, the appellants have not extended the service of the respondents after 17.05.2022 for the reason of approaching this Court seeking for regularization of their service in mala fide exercise of service. He further submits that non-consideration of the respondents against the existing vacancy of Dancer held by them while considering the case of other four Dancers would amount to violation of the rights guaranteed under Article 14 and 16 of the Constitution of India and the non-regularization of the respondents' service after rendering more than 20 years of service would be inhuman and the same may amount to exploitation.

[7] However, the learned counsel for the appellants submitted that the duty of the Dancer is to perform on the stage and the performer has to be full of energy so that he/she can give his/her best. As per the Recruitment Rules, the posts are filled up through contractual engagement and their engagement is upto the age of 40 years, which can be extended upto 6 years. In the above referred case, the respondents were engaged according to the provisions of the

Recruitment Rules and their contractual engagement should have been discontinued as soon as they attain the age of prescribed in the Recruitment Rules, but due to ongoing dance/drama productions, their contractual period extended from time to time. He further submits that as per the provisions of the Recruitment Rules of Dancers, respondent authorities cannot appoint a regular incumbent against the posts. Hence, the prayer of the respondents for regularization of their services will be in violation of the provisions of the Recruitment Rules and the judgment of Apex Court in the case of ***State of Karnataka v. Umadevi (3) report in (2006) 4 SCC 1***. Thus, a prayer to dismiss the writ petition was made.

[8] The grievances of the respondents is that the second appellant issued the impugned order without considering the fact that the respondents are continuing in the post and enjoying the prescribed pay scale for the post and have rendered half of their prime life in the role of Artiste/Dancer in JNMDA. Therefore, it would be just and proper to consider the case of the respondents for regularization against the post held by them at present. On the other hand, the plea of the appellants is that the engagement of respondents was purely on contract basis and for a specific period. As per the provisions of the Recruitment Rules, the appellant authorities cannot appoint a regular incumbent against the post. Therefore, the prayer of the respondents

for regularization of their services will be in violation of the provisions of the Recruitment Rules and the Judgment of the Apex Court in the case of ***State of Karnataka vs Umadevi (3) reported in (2006) 4 SCC 1***. It is also the say of the appellants that there is no rule to regularize the services of the respondents and if the respondents are regularized, then the other employees will also claim the same benefit. Therefore, the respondents are not entitled to regularization.

[9] Pursuant to the direction of this Court in W.P. (C) No.74 of 2022, the petitioners have submitted their representation on 4.3.2022 to the Director, JNMDA, Imphal. Thereafter, on 28.3.2022, the Director, JNMDA, Imphal addressed a letter to the Deputy Secretary, Sangeet Natak Akademi, New Delhi, requesting to intimate further action to be taken up for compliance of the order of this Court for issuance of speaking order and approval for extension of their contract service from 1.2.2022 till the date of issuance of speaking order. On 17.5.2022, the second appellant issued the impugned order rejecting the claim of the respondents by referring the decision of the **Apex Court in *Umadevi (3)*, supra**, wherein it has been held that when a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual

or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post.

[10] The plea of the respondents is that similarly situated persons, who entered service as Artiste on consolidated basis and subsequently engaged on contract basis with pay scale, were given regularization to the post of Dancer in the JNMDA. In support, the learned senior counsel for the respondents drew the attention of the Court to the orders dated 22.6.2018 passed by the Director, JNMDA in respect of **O. Debola Devi; P. Bilash Singh; Thounaojam Parul Devi and Oinam Jiten Singh.**

Operative portions of order dated 22.06.2018 are as follows;

"No. 2(1)75-76/JNMDA
OFFICE OF THE JAWAHARLAL NEHRU MANIPUR
DANCE ACADEMY: IMPHAL

OFFICE ORDER
Imphal, the 22nd June, 2018

As per decision of the Advisory Committee meeting, held on 11th December, 2017, the service of Smt. Oinam Debala Devi, Dancer, Production Unit, JNMDA is regularized w.e.f 10.05.2018 in the pay scale PB-2 Rs. 9300-34800/- with grade pay of Rs. 4200/- and posted to the vacant post of Wardrobe Assistant.

This order issues with the approval of the competent authority.

(L. Upendro Sharma)
Director

Smt. Oinam Debala Devi
Dancer/JNMDA"

"No. 2(1)75-76/JNMDA
OFFICE OF THE JAWAHARLAL NEHRU MANIPUR
DANCE ACADEMY: IMPHAL

OFFICE ORDER
Imphal, the 22nd June, 2018

As per decision of the Advisory Committee meeting, held on 11th December, 2017, the service of Shri. P. Bilash Singh, Dancer, Production Unit, JNMDA is regularized w.e.f 10.05.2018 in the pay scale PB-2 Rs. 9300-34800/- with grade pay of Rs. 4200/-.

This order issues with the approval of the competent authority.

(L. Upendro Sharma)
Director

Shri. P. Bilash Singh
Dancer/JNMDA"

"No. 2(1)75-76/JNMDA
OFFICE OF THE JAWAHARLAL NEHRU MANIPUR
DANCE ACADEMY: IMPHAL

OFFICE ORDER
Imphal, the 22nd June, 2018

As per decision of the Advisory Committee meeting, held on 11th December, 2017, the service of Smt. Thounaojam Parul Devi, Dancer, Production Unit, JNMDA is regularized w.e.f 10.05.2018 in the pay scale PB-2 Rs. 9300-34800/- with grade pay of Rs. 4200/- and posted/transferred to the vacant post of Junior Production Assistant.

This order issues with the approval of the competent authority.

(L. Upendro Sharma)
Director

Smt. Thounaojam Parul Devi
Dancer/JNMDA"

[11] The learned senior counsel for the respondents submits that there are adequate numbers of vacancies in the grade of Dancer/Artiste in JNMDA, Imphal and, thus, consideration of the respondents against such vacancies would be an act of fairness which also would redress the grievances of the respondents. Further, there is no legal impediment in any manner for excluding the respondents from such consideration, but rather would be just, proper and considerate judicious decision where the interest of any third party would not be prejudiced.

[12] On 12.06.2024, learned counsel for the respondents submitted his written argument/brief note of the case contending that as per the recruitment rules of Dancer, a Dancer may be retained till the age of 40 years unless with the specific approval of the Advisory Committee and the term of contract should be maximum for a period of 6 years. However, all the respondents/petitioners were allowed to be continued beyond 40 years of age and they have been serving as Dancer for more than 20 years thereby showing that the said recruitment rules is not strictly enforced in JNMDA. He further mentioned that it is the stand of the Appellants that there are no regular sanctioned post of Dancer in JNMDA and all the posts of Dancers are contractual posts. However, as per the decision of the Advisory Committee meeting held on 11.12.2021, the service of 1)

Smt. Oinam Debola Devi, Dancer; Shri P. Bilash Singh, Dancer; 3) Thounaojam Parul Devi, Dancer; and 4) Oinam Jiten were regularized w.e.f 10.05.20218 vide order dated 22.06.2018. Thus, it is seen that Dancers are given regularization in JNMDA with the approval of the Advisory Committee. However, in the case of the respondents/petitioners, Appellants are adopting a different yardstick which is discriminatory in nature and thus liable to be interfered with from the ends of justice. This factum is also admitted by the Appellants at para 27(v) of the Memo of Appeal that "*order dated 22.06.2018 was passed and the employees were regularized against the vacant regular post not regularized on the post of contractual Dancers*". Thus, it is very clear that there are sanctioned post of Dancers in JNMDA against which the case of the respondents/petitioners can be considered for regularization as have been done in the case of other similarly situation person vide order dated 22.06.2018.

Further, in reply to a RTI Application dated 05.04.2024 filed by the counsel for the respondents/petitioners, the JNMDA has given information to the effect that there are 14 no. of sanctioned posts of Dancer in JNMDA and 13 of the said posts are presently occupied including by the present 4(four) respondents/petitioners. In response to the query regarding whether there has been any instance where Dancer in JNMDA continued till their respective superannuation from

service, the JNMDA provided the names of A. Lakshmi Devi, S. Noyonshakhi Devi and K. Binakumari Devi, N. Ajit Singh and R.K. Jayatisana Devi meaning thereby they have retired as Dancer upon attaining the age of superannuation and were given retirement benefits for the post of Dancer.

From the above facts and circumstances, it is clear that there are Dancers serving in JNMDA beyond 40 years of age and they are allowed to continue till the age of superannuation. Further, 4(four) persons who are similarly situated with the respondents/petitioners and beyond 40 years of age were also regularized as Dancer in JNMDA against the sanctioned post of Dancer. Therefore, the claim of the Appellants that there is no sanctioned post of Dancer in JNMDA against which the respondents/petitioners could be considered for regularization is not sustainable. Further mentioned that present petitioners are enjoying pay scale of Dancer even though they are working on contract basis and upon regularization there may not be any financial burden on the Appellant.

[13] On 15.10.2024, the learned counsel for the appellant submitted affidavit of the Appellant against the brief note/written submission filed by the respondents/petitioners stating that during the hearing on 21.08.2024 the Respondent's Ld. counsel handed over the brief notes containing the reply to the RTI application furnished by the

JNMDA which is not on record. The information provided in response to the RTI request by one of the CPIOs of the appellants has led to some confusion for the Hon'ble Court. Additionally, it appears to be inconsistent with the provisions of the appellant department, and it contradicts the stance taken by the appellant in their arguments. Further submitted that in the interest of justice, this Hon'ble court granted an opportunity to the appellant counsel to take instructions and clarify on the contrary view taken in the appeal with the RTI reply, for the same matter was adjourned. Thereafter, the learned counsel for the appellant brought to the attention of the concerned authority of the appellants the information furnished in RTI reply dated 30.04.2024. However, the concerned authority was surprised and unaware of this response. As a result, they have decided to issue a show cause notice dated 28.08.2024 to the CPIO responsible for providing incomplete and inaccurate information in the RTI reply dated 20.04.2024. He further submitted that the Hon'ble Single Judge overlooked the critical submission made by the appellant that the respondents/petitioners were engaged on a purely contractual basis or a specified period. Granting the respondents/petitioners prayer for regularization would constitute a breach of the Recruitment Rules (RRs) and contravene the binding precedent established by the Apex court.

Operative portion of the RTI reply reads as follows;

*"OFFICE OF THE JAWAHARLAL NEHRU
MANIPUR DANCE ACADEMY: IMPHAL*

No. Admn.48/2015-16/JNMDA

Imphal, the 30th April, 2024

To

*Huidrom Malemleima,
Advocate,
Palace Compound
Imphal East*

*Subject: Furnishing of information relating to your RTI
Application.*

Madam,

*With reference to above mentioned subject, I am to furnish
the required information sought by you as follows.*

<i>Sl. No.</i>	<i>Queries</i>	<i>Information</i>
<i>1</i>	<i>No. of sanctioned posts of Dancer in JNMDA</i>	<i>14 (fourteen)</i>
<i>2</i>	<i>No. of presently occupied Dancers and no. of vacant post of Dancer</i>	<i>No. of presently occupied post of Dancers 13 (thirteen): Th. Hemchandra Singh singh; N. Surendrajit Singh; H. Sharmila Devi; G. Chandan Devi; M. Momocha Singh; Anantakumar Longjam; Th. Tolen Meitei; R.K. Nilakanta Singh; S. Rahul Singh; Nirina Yambem; Roshali Rajkumari; L. Monika Devi and Babina Chanam and 1 (one) post is lying vacant.</i>
<i>3</i>	<i>Has there been any instance where Dancer in JNMDA continued till their respective superannuation from service.</i>	<i>A.Lakshmi Devi, S. Noyonshakhi Devi, K. Binakumar Devi, N. Ajit Singh, R.K. Jayatisana Devi</i>
<i>4</i>	<i>No. of Dancers who are above 40 years at present in JNMDA</i>	<i>Th. Parul Devi, Dancer posted as Jr. Production Asstt; O. Debela Devi Dancer posted as Wardrobe Asstt.; O. Jiten Singh, Dancer posted as Stage Asstt.</i>
<i>5</i>	<i>Whether SNA is the appointing authority in respect of Dancer, JNMDA, if not who is the appointing authority</i>	<i>Director, Jawaharlal Nehru Manipur Dance Academy, Imphal is the appointing authority for the post of Dancer, JNMDA.</i>

6	<i>Is there any vacant post at present in equivalent post of Dancer in JNMDA</i>	<i>Guru Grade 1, JNMDA – Vacant post 3 (three) Sr. Production Asstt., JNMDA – Vacant post 1 (one) Assistant Admn., JNMDA – Vacant post 1 (one)</i>
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*(Wangkhem Jikendrajit Singh)
Programme Officer, JNMDA"*

[14] After perusal of all the materials on record and after hearing both the parties, Ld. Single Judge passed the impugned order dated 07.07.2023 in WP(C) No. 372 of 2022, relevant portion of the order reads as follows;

"26. In the result,

(a) The writ petition is disposed of.

(b) The impugned order dated 17.5.2022 passed by the first respondent is set aside.

(c) The respondent authorities are directed to consider the case of the petitioners for regularization against the available vacancies of Dancer in the JNMDA in the light of the orders dated 22.6.2018 issued by the Director, JNMDA and as per the relevant rules.

(d) The aforesaid exercise is directed to be completed within a period of twelve weeks from the date of receipt of a copy of this order.

(e) There will be no order as to costs."

[15] Being aggrieved by the order dated 07.07.2023, the appellants has preferred the present appeal. The appellants contended that the impugned decisions of the Single Judge was passed without proper deliberation and without arguments, without reference to the

crucial words of the rule and any citation of authority on law applicable to Autonomous bodies like SNA and JNMDA and the Single Judge has committed a grave error in allowing the writ petition, quashing the order dated 17.05.2022 and directed the appellant authorities to consider the case of the respondents for regularization against the available vacancies of Dancer in the JNMDA, whereas there is no regular post are available for the dancer in the light of the orders dated 22.06.2018 issued by the Director, JNMDA and as per the relevant rules; however, the order dated 22.06.2018 was passed to consider regularization for another available vacancy instead of regularization for dancer available post and the aforesaid exercise is directed to be completed within a period of twelve weeks from the date of receipt of a copy of the order and there will be no order as to costs.

[16] The learned counsel for the appellant further submits that JNMDA is a constituent unit of Sangeet Natak Akademi (SNA), and SNA is an autonomous body under Ministry of Culture Government of India, and 100% financed by the GOI through Grant-in-Aid from Public Fund. Pay & Allowances and terminal/retirement/pensionary benefits to the staff of SNA and its constituent units who are working against the regular sanction posts are being paid from the fund released from the Ministry of Culture. Contractual Posts like contractual post of Dancer in JNMDA do not come under regular sanctioned posts and no fund is

released from the Ministry of Culture Government of India for such posts on account of terminal/retirement/pensioner benefits. Hence, the directions of the Hon'ble High Court for consideration of their regularization on contractual basis cannot be acceded.

In support of his case, the appellant relied upon the following judgment:

1. *(2015) 5 SCC 333 - [T.M. Sampath & Ors Vs. Secretary, M/O Water Resources & Ors]*
2. *Municipal Corporation of Delhi Vs Gurnam Kaur.*
3. *A-One Granites Vs State of UP and Ors.*

[17] It is seen and emerged that the initial engagement of the respondents/petitioners on consolidated pay as Dancer was in the years of 1998, 2000 and 2002 respectively and thereafter in the year 2010, they have been appointed as contract Dancer against the vacant post in the scale of pay of Rs. 9300-34800 with GP Rs. 4200/- and other admissible allowances. Now the respondents/petitioners are aged 52, 50, 44 and 53 respectively and under the hope that their services will be regularized as Dancer in JNMDA, the petitioners have been performing their duties to the satisfaction of all concerned. It is not the case of the appellants that the respondents/petitioners are irregular and have not been performing their duties well. The respondents/petitioners

have rendered half of their prime life in the role of Artiste/Dancer in the JNMDA.

[18] Further, it is also seen and emerged that similarly situated persons, who entered service as Artiste on consolidated basis and subsequently engaged on contract basis with pay scale, were given regularization to the post of Dancer in the JNMDA. In support, the learned senior counsel for the respondents/petitioners drew the attention of the Court to the orders dated 22.06.2018 passed by the Director, JNMDA in respect of O. Debola Devi; P. Bilash Singh; Thounaojam Parul Devi and Oinam Jiten Singh.

[19] On perusal of the aforesaid four orders, it is seen and evident that the Director of JNMDA, Imphal, had issued an order regularizing the services of O. Debola; P. Bilash Singh; Thounaojam Parul Devi and Oinam Jiten Singh with effect from 10.05.2018 based on the decisions of the Advisory Committee meeting held on 11.12.2027.

[20] After going through the pleadings of the parties and after hearing both the learned counsel for the parties it is seen that the following are the admitted position of fact and the same is extracted herein below;

1. The respondents/petitioners were initially engaged as Artiste/Guru/Dancer in JNMDA on consolidated pay in the years 1998, 2000, 2001 and 2002;

2. Thereafter in the year 2010 on recommendation of the Selection Committee, they have been appointed as contract Dancer against the vacant post in the scale of pay of Rs. 9300-34800 with GP Rs. 4200/- and other admissible allowances;
3. The appointment of the respondents/petitioners is clearly on sanctioned posts with clear vacancy of which the respondents/petitioners are still holding/occupying. Mention is made here that appellant no. 2 there are 14 nos. of sanctioned post out of that 13 nos. of the post of dancers were appointed/filled out of the said 13, the present respondents/petitioners were also included and there is still vacancy of 1 post.
4. Similarly situated persons but who were appointed on contract basis much after the contractual appointment of the present respondents/petitioners, who entered service as Artiste on consolidated basis and subsequently engaged on contract basis with pay scale, were given regularization to the post of Dancer in JNMDA vide order dated 22.06.2018. (Ref: Anx – A/17 to A/20)
The appointment order of the aforesaid

subsequently appointed employee are reproduced herein above;

5. There are Dancers serving in JNMDA beyond 40 years of age and they are allowed to continue till the age of superannuation. Mentioned is made here that the appellants allowed the respondents/petitioners to continue their service beyond 40 years and they have been allowed to serve till now i.e. more than 20 years thereby showing that the said recruitment rules is not strictly enforced by the appellant no. 2, they are still employed as dancers till now inspite of their age crossing much over 40 years of age and they are now aged about 52, 50, 44 and 53 respectively.

[20] **The Apex Court in the case of *Umadevi (3)* supra, held as under.**

"53. One aspect needs to be clarified. There may be cases where Irregular appointments (not illegal appointments) as explained In S.V.Narayanapa [(1967 2 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 regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment.

In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, 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."

[21] **In 2018 SCC Online SC 3860 [Ravi Verma & Ors vs Union of India & Ors]**

"13. In view of the aforesaid decision, the circulars and regularization of the similarly situated employees at other places and various recommendation that were made the services of the appellants ought to have been regularized in the year 2006; discriminatory treatment have been meted out to them. As per the decision of Uma Devi (Supra), they were entitled to regularization of services; they did not serve under the cover of court's order. Illegality has been committed by not directing regularization of services.

14. We direct that the services of the appellants be regularized w.e.f 1st July 2006 they are entitled to consequential benefit also let the respondents comply with the order in a period of three months from today."

[22] **In 92024) SCC Online SC 2277 – [Ushaben Joshi vs Union of India & Ors]**

"17..... Keeping in view the fact that an employee similarly placed but inducted in service after nearly six years from the date of employment of the appellant with the respondent-Department has been conferred the benefits of confirmation in service by way of appointment to the post of MTS, the appellant is entitled to claim the same benefits."

[23] With due consideration to the facts and circumstances set out by the parties and the admitted position of fact and law as has been highlighted and narrated above and applying the ratio of the Apex Court as reproduced above, we are of the view that the case of the appellants' contentions have no legs to stand on and instead the appellant authorities ought to take steps to regularize the service of the respondents/petitioners.

[24] In the result there is no scope to interfere with the impugned order of the learned Single Judge and appellants are directed to comply with the direction given by the learned Single Judge and to take steps to comply with the direction made by the learned Single Judge within a period of 6 (six) weeks.

[25] With the above direction the present appeal is dismissed.

JUDGE

CHIEF JUSTICE

FR/NFR

Lucy