

**Neutral Citation No. - 2024:AHC-LKO:27206-DB**

**Reserved**

**Chief Justice's Court**

**Case :- SPECIAL APPEAL No. - 56 of 2022**

**Appellant :- Sri Kamrul Haq And Others**

**Respondent :- State Of U.P. Thru. The Prin. Secy. P.W.D. And Others**

**Counsel for Appellant :- Ashok Kumar Singh, Suresh Chandra Yadava**

**Counsel for Respondent :- C.S.C.**

**Alongwith**

**Case :- SPECIAL APPEAL No. - 58 of 2022**

**Appellant :- Kamaljeet Singh And Others**

**Respondent :- State Of U.P. Thru. Prin. Secy. Public Works Deptt. Lko. And Another**

**Counsel for Appellant :- Suresh Chandra Yadava, Ashok Kumar Singh**

**Counsel for Respondent :- C.S.C.**

**Alongwith**

**Case :- SPECIAL APPEAL No. - 62 of 2022**

**Appellant :- Surendra Kumar Johri And Others**

**Respondent :- State Of U.P. Thru. Add. Chief Secy. Public Works Deptt., Lko. And Another**

**Counsel for Appellant :- Mohd. Mansoor, Mohammad Danish**

**Counsel for Respondent :- C.S.C.**

**Alongwith**

**Case :- SPECIAL APPEAL No. - 100 of 2022**

**Appellant :- Manoj Kumar Pandey And Anr**

**Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Public Works Deptt. Civil Secrt Govt. U.P. Lko. And Ors**

**Counsel for Appellant :- Suresh Chandra Yadava, Prashant Kumar Chaurasia, Purshottam Chaurasia**

**Counsel for Respondent :- C.S.C.**

**Hon'ble Arun Bhansali, Chief Justice**

**Hon'ble Jaspreet Singh, J.**

**(Per : Jaspreet Singh, J.)**

1. The appellants, were the writ petitioners, who were initially appointed on the post of Work Supervisor in the

Uttar Pradesh Public Works Department (hereinafter referred to as PWD) some on daily wages and some on Work-charge basis against permanent vacancies and were assigned the duties of a Junior Engineer which the appellants were discharging diligently.

2. Since they were all working in the PWD for a number of years, hence they all joined together and filed four respective writ petitions seeking the relief in the nature of mandamus commanding the respondents to regularize the petitioners in service and also to pay the regular salary as admissible to the similarly placed Junior Engineers of the PWD. The details of the writ petitions are: (i) Writ-A No.2970 of 1994, [Hasan Akhtar and others Vs. State of U.P. & others, this has given rise to Special Appeal No.56 of 2022] (ii) Writ-A No.5687 of 1994, Kamaljeet Singh and others Vs. State of U.P. & others, which has given rise to Special Appeal No.58 of 2022, (iii) Writ-A No.2623 of 1995, Surendra Kumar Johri & others Vs. State of U.P. & others, which has given rise to Special Appeal No.62 of 2022 and (iv) Writ-A No.1484 of 1997, Manoj Kumar Pandey & another Vs. State of U.P. & others, this has given rise to Special Appeal No.100 of 2022.

3 The four writ petitions as mentioned above were clubbed together and dismissed by the learned Single Judge by means of a common judgment/order dated 27.01.2022 holding that though the petitioners were regularized during pendency of the writ petition hence their original relief stood granted and the writ petition were infructuous, however, the amended relief could not be granted as the writ petitioners were initially appointed on Work-charge and Daily wages and were not appointed as *ad hoc*, hence their services could not be regularized from the date of their initial appointment. Being aggrieved the writ petitioners have filed these four intracourt appeals which involve common

questions of facts and law, hence they are being decided by this common judgment.

4. Briefly, the facts giving rise to the instant intracourt appeals are, that the appellants before this Court [petitioners before the writ court] were engaged some on daily wage basis and some on Work-charge on the post of Helper, Work Supervisor, Generator Operator and Work Agents in the PWD between the year 1985 to 1990 and were assigned the work of Junior Engineers and were working without a break for a number of years. All the writ petitioners were qualified diploma holders and fully qualified to hold the post of Junior Engineers.

5. The writ petitions had a prelude inasmuch as a writ petition come to be filed by Berojgar Diploma Engineers Association bearing No.27367 of 1991 seeking a writ in the nature of mandamus directing the State Authorities to consider and regularize the services of all the persons of the association who had worked for more than 240 days without break from the year 1979 onwards.

6. In the aforesaid petition, a learned Single Judge passed an order dated 24.03.1993 to pay the minimum of pay scales admissible to regular Junior Engineer to all such persons on whose behalf the writ petition was filed. This order dated 24.03.1993 was confirmed vide order dated 30.08.1993.

7. Since there was no clarity as to whether the said orders would be applicable to the present appellants hence they filed their respective writ petitions seeking the relief of regularization.

8. While the said writ petitions were pending, the Engineer-in-Chief PWD issued an advertisement by which application were invited for filing up of vacancies on the post of Junior Engineer.

9. Since the petitioners and other similarly situated persons were working since long and their writ petitions for regularizing

was also pending hence the U.P. Berojgar Diploma Engineer Association filed another Writ Petition No.556 (S/S) of 1995 assailing the action of filling up the vacancy by the PWD and a direction was sought that the PWD ought to first regularize the services of the petitioners and others who were working since long before making direct recruitment.

10. The learned Single Judge seized of the Writ Petition No.556 (S/S) of 1995 disposed of the said petition by means of order dated 09.03.1995 and the relevant portion reads as under:-

*"After hearing the learned counsel for the petitioner and learned Standing Counsel, I consider it just and proper to issue a direction that the respondent no.2 shall consider the petitioner no.2 and all the persons, mentioned in Annexure 1, for being given fresh appointments on adhoc basis subject to their eligibility and suitability, their case be considered first before making any selection of persons who have applied in pursuance of the advertisement Annexure 2. It is also made clear that the petitioners be not out-rightly rejected on account of the age and their period of working with the opposite party be taken to be working with the opposite party and not disqualify as age bar. It is also directed that the opposite parties no.1 and 2 within a period of six months from today, may make a phase-wise scheme for regularization of the persons, who have been working under them for sufficiently long period and pass orders for regularization also, after such policy and scheme for regularization is framed by the opposite parties.*

*The writ petition is disposed of with the above directions."*

11. The State assailed the said judgment dated 09.03.1995 by filing a Special Appeal No.82 (S/B) of 1995 and the Division Bench of this Court by means of order dated 17.04.1996 modified the operative portion of the order dated 09.03.1995. The relevant portion of the order dated 17.04.1996 reads as under:-

*"On consideration of the facts and circumstances of the case and the submissions made, it is ordered that the appellants will refer the case of the petitioners who possess eligibility qualification to the U.P. Public Service Commission for consideration of regular appointment as Junior Engineer and*

*their cases will be considered by the Commission alongwith other applicants in accordance with the service rules without insisting on the age limit and giving due regard to the experience gained by them in the department. It is further ordered that the appellants will consider the petitioners who possess the eligibility qualification for appointment as ad hoc Junior Engineer alongwith other applicants without insisting on the age limit and giving due regard to the experience gained by them in the department.*

*The impugned judgment particularly, the operative portion of it, is modified to this extent.*

*The Special Appeal is disposed of on the terms aforesaid."*

12. The record further reflects that there was another writ petition filed by Yogesh Srivastava bearing Writ Petition No.2605 (S/S) of 1991, a diploma holder in Civil Engineering which was connected with Writ Petition No.1400 of 1991 and he too was seeking his regularization which came to be decided on 18.06.1996 and the Court issued a direction commanding the Authorities to allow the petitioners of the said writ petition to work on the post of Junior Engineers in the PWD. It was also directed that the petitioners of the said writ petition will be paid the minimum scale of salary with allowances per month which was admissible to regular Junior Engineers. The relevant portion of the said order dated 18.06.1996 reads as under:-

*"In view of what has been indicated herein above, writ petitions succeed. A writ in the nature of mandamus is issued commanding the opposite parties to allow the petitioners to work on the post of Junior Engineers in the establishment of P.W.D. ignoring the oral order of discharge/termination, if any, passed against them. The petitioners would be deemed to be in service during the period they were not allowed to work in pursuance of the oral order of discharge/termination passed against them, but they would not be entitled for back wages. This order has been passed only for the reason that it may not put the department of P.W.D. to financial strain. The petitioners will be paid the minimum scale of salary with allowances per month which the regular junior Engineers in the department of P.W.D. have been getting, till their services are regularized in accordance with the law, as per directions given above."*

13. It is in the aforesaid backdrop where number of persons who were similarly situate had filed their writ petitions before the Court and different but consistent orders were passed, consequently, a committee was constituted by the State and the details of all the diploma holder engineers, who were the members of the association and such other persons who had filed the respective writ petitions was considered by the State Government and they were accorded benefit of the revision of pay scale.

14. Faced with the aforesaid situation where several writ petitions had been filed and there were repeated and consistent orders of the Court for considering the case for regularization, hence a proposal was sent by the Engineer-in-Chief PWD to the State Government so that the orders passed by the Court could be given effect to.

15. Taking note of the aforesaid, Engineer-in-Chief PWD by means of order dated 06.09.2006 regularized the services of the instant appellants during pendency of their writ petitions. At a later stage i.e. on 04.09.2019 the writ petitioners/appellants herein, moved an application for amendment in the writ petitions seeking an amendment in the prayer to the effect that a direction be issued to the Authorities for regularizing the petitioners from the date of their initial appointment in the PWD with all consequential benefits. The said application was allowed by the Court and thereafter the writ petitions came up for hearing which have been dismissed by the learned Single Judge by means of order dated 27.01.2022 which is subject matter of the instant appeals.

16. Shri Prashant Chandra, learned Senior counsel assisted by Shri Anshuman Singh and Ms. Geetika Yadav counsel for the appellants in all the connected appeals has vehemently urged

that the learned Single Judge had committed an error in dismissing the writ petitions especially ignoring that the appellants had worked continuously without any break on the post of Junior Engineers and they were duly entitled for regularization of their services from the date of their appointment in accordance with the Rules of 1979 with all consequential benefits.

17. It was also urged that similarly situate Junior Engineers relating to another department (Minor Irrigation), their services have been regularized even though they were appointed much after the date of appointment of the present appellants and even their prayer for counting their past services prior to the date of regularization was also granted including the pensionary benefits. The said issue was considered by a Division Bench of this Court in Special Appeal No.21 of 2022 which was allowed and the said orders have also attained finality upto the Apex Court.

18. It was urged that the Division Bench decision in Special Appeal No.21 of 2022 was dated 27.01.2022 i.e. the date on which the learned Single Judge dismissed the writ petitions of the present appellants. It is in the aforesaid backdrop, it was submitted that the issue was squarely covered and adjudicated by a Co-ordinate Bench at Allahabad, hence the appellants, who are similarly situate, are also entitled to the same benefits and they be accorded similar benefits as granted in Special Appeal No.21 of 2022.

19. The learned Senior Counsel pointed out that this Court by means of order dated 25.03.2022 had required the learned Standing Counsel to appraise the Court as to whether the decision of the Co-ordinate Bench in Special Appeal No.21 of 2022 dated 27.01.2022 had been accepted by the State or the same was challenged.

20. It has been pointed out by the learned Senior Counsel that the State did challenge the order dated 27.01.2022 before the Apex Court which came to be dismissed on 27.09.2023. The State also sought a review before the Apex Court of the order dated 27.09.2023 and even the review was dismissed and accordingly the order has attained finality. The appellants too are entitled to the same benefit, hence the order passed by the learned Single Judge deserves to be set aside after allowing the appeals granting the benefit as made admissible to the similarly situate persons as held in Special Appeal No.21 of 2022.

21. Shri Anand Singh, learned Standing Counsel appearing for the State has refuted the aforesaid submissions and has urged that in so far as the decision of the Division Bench in Special Appeal No.21 of 2022 having been challenged before the Apex Court and the challenge having failed including the review is not disputed but he submits that the case of the petitioners is different, hence the appellants cannot claim the benefit of the case of the Division Bench in Special Appeal No.21 of 2022.

22. It is urged by Shri Singh that admittedly the appellants were not appointed as *ad hoc* Junior Engineers rather they were initially engaged on daily wage basis on the post of Helper, Work Supervisor, Generator Operator and Work Agents in the PWD. For the aforesaid reason, the *ad hoc* Rules of 1979 were not applicable, hence their regularization made by the State on 06.09.2006 shall take effect from the said date of regularization itself and there cannot be any direction to regularize the services of the petitioners from the date of their initial appointment with all consequential benefits.

23. It has been urged that apparently in so far as the primary relief claimed by the appellants, while filing the writ petition, was regarding their regularization which needles to say was

done on 06.09.2006 and as such their petitions had already been rendered infructuous. Now, it was not open for the petitioners to seek an amendment in the prayer in the year 2019 and then seek that the order of regularization be amended to regularize the services of the petitioners from the date of their initial appointment which *per se* is not permissible.

24. In the aforesaid circumstances, it is urged that firstly the regularization of the petitioners at best could take effect from the date of regularization i.e. 06.09.2006 and moreover since they were not *ad hoc* employees at the time of their initial engagement, accordingly the Rules of 1979 are not applicable, thus the relief claimed by the appellants to count their regularization from the date of their initial engagement is not tenable and as such the learned Single Judge committed no error in dismissing the petitions, consequently the appeals too deserve the same fate.

25. The Court has heard the learned counsel for the parties and also perused the material on record.

26. At the outset, it may be noticed that it is not disputed by the parties that the engagement of the present appellants was not on *ad hoc* basis. It is also not disputed between the parties that similarly situate Junior Engineers working in the PWD as well as in other Government Departments including Minor Irrigation, were similarly placed and there have been repeated orders passed by the Court from time to time in their respective cases wherein the issue of regularization was considered and directions were issued to the State to consider and pass appropriate order relating to such Junior Engineers.

27. It is also not disputed that the issue raised by the present appellants was also the subject matter of Writ-A No.3660 of 2021 (Raj Bahadur Pastor Vs. State of U.P. & others) wherein

relying upon the decision of the Apex Court in ***Prem Singh Vs. State of U.P. (2019) 10 SCC 516*** as well as in the case of ***State of U.P. & others Vs. Bhanu Pratap Sharma, Special Appeal No.97 of 2021 decided on 09.06.2021*** a learned Single Judge held that the services rendered by the said petitioners prior to his regularization was also to be taken into account for determining the period of qualifying service for the purposes of payment of pensionary and other benefits. This decision in Raj Bahadur Pastor dated 09.06.2021 was made the the subject matter of Special Appeal No.21 of 2022 wherein a Co-ordinate Bench by means of its judgment dated 27.01.2022 held that even though the petitioner of the said case came to be regularized later but the Division Bench held that the order of regularization dated 31.12.2018 shall stand amended and the date of regularization was taken to be 20.12.2021 i.e. the date when the 3rd amendment in the regularization rules came into effect. A copy of the judgment in Special Appeal No.21 of 2022 has been brought on record as annexure no.18 with the affidavit filed by the appellants in support of the application for interim relief. The relevant paragraphs 18, 19, 39, 40, 41, 42, to 46 of the said judgment are being reproduced as under:-

*18. It is admitted that initial engagement of respondent/petitioner in the department of Minor Irrigation of State of U.P. was on daily wage basis w.e.f. 1.1.1989. He continued to work in such capacity without any complaint. A direction came to be issued by Lucknow Bench of this Court on 21.2.1997 for consideration of his claim for regularization against the existing vacancies and also pay him minimum of pay scale admissible to a regular Junior Engineer. This interim direction of the writ court was complied only in part, inasmuch as, scale of pay admissible to a Junior Engineer alone was sanctioned by the Chief Engineer to respondent/petitioner on 3.9.1997, but his claim for regularization was not considered. Vide subsequent order of 18th September, 1997, the department posted the respondent petitioner as Junior Engineer in the office of Assistant Engineer (Rig).*

19. The post of Junior Engineer in the department was to be substantively filled under the rules by way of direct recruitment to be made by the U.P. Public Service Commission. The initial engagement of respondent/petitioner is not shown or even claimed to be through the Commission, but his engagement since 1.1.1989 and continuous working ever since then till he attained the age of superannuation remains admitted on record. It is also undisputed that repeated orders were passed by this Court, from time to time, for consideration of his claim for regularization, but it is only vide order dated 3.12.2018 that his services have been regularized by having recourse to the third amendment in the regularization rules, notified on 20th December, 2001. It is soon thereafter that the respondent/petitioner has superannuated on 30.9.2020. The respondents have denied pensionary benefits to the respondent/petitioner only on the ground that he has not completed qualifying service of 10 years under the U.P. Retirement Benefit Rules, 1961.

x-----x-----x-----x-----x-----  
39. Prayer of the respondent/petitioner in the writ is to issue a writ of mandamus amending the regularization order, dated 31.12.2018 and make it operative either from 3.2.1993 (from when regular salary has been given) or from 20.12.2001 i.e. the date on which third amendment rules were notified and for grant of all consequential service and pensionary benefits. The prayer in the writ petition clearly is to amend the regularization order and make it operative from a previous date. The mere fact that a writ of certiorari has not been prayed for would not be material, in our view, as in the facts of the case the prayer is sufficiently specific for amending the regularization order and to make it operative from the date when rules for regularization came into existence i.e. 20.12.2001. The mere fact that a writ of certiorari to quash the order to the extent regularization is allowed from the date of order is not prayed would not be fatal to the cause of the respondent/petitioner in the facts of the present case. It is ultimately for the Court to decide as to which writ is to be issued in the facts of a case. What remains of importance is the relief in the prayer clause of writ and not the specification of writ itself, to be issued by the Court, which lies exclusively in the jurisdiction of Court, to be considered in the facts of a particular case. We are, therefore, of the view that claim of respondent/petitioner for amending the regularization order and make it effective from the date of enforcement of rules cannot be overlooked only because a writ in the nature of certiorari is not specifically claimed. The objection of Sri Pandey, in this regard, is thus repelled.

40. Successive directions have otherwise been issued by the writ court for considering the claim of respondent/petitioner for regularization. We have already referred to the orders in

*that regard. Claim for regularization of the services of respondent/petitioner thus needs examination, in accordance with law.*

*41. Rules for regularization were framed in respect of adhoc appointments on the posts falling within the purview of Public Service Commission in 1979. These rules were amended from time to time and the respondent petitioner has relied upon the third amendment rules notified on 20.12.2001. The cut off date was amended and substituted by these rules. Amended rule 2 notified on 20.12.2001 provided that any person directly appointed on adhoc basis on or before 30.6.1998 who possessed requisite qualification at the time of appointment and had completed three years service and was working on 20.12.2001 would be entitled to be considered for regular appointment against permanent or temporary vacancy on the basis of his record and suitability before any regular appointment is made in such vacancy in accordance with the relevant service rules.*

*42. The fact that claim of respondent/petitioner for regularization under the notification dated 20.12.2001 was covered is neither in doubt nor is disputed in view of the order dated 31.12.2018 since his initial engagement on adhoc basis was from a date prior to 30.6.1998; he was working on 20.12.2001; he possessed requisite qualification for regular appointment at the time of initial adhoc appointment and had completed three years continuous service.*

*43. The notification dated 20.12.2001 was expected to be given effect to with immediate effect and the consideration of claim for regularization of respondent/petitioner ought not to have been deferred for so long particularly in view of the express provision contained in the rule itself. Rule 2(iii) of the amended rules notified on 20.12.2001 also indicates the specific intent by the rule framing authority for such consideration to be made before any regular appointment is made in accordance with the service rules. The language employed in rule 2(iii) is relevant and is reproduced hereinafter:-*

*"2(iii). Any person who - has completed or, as the case may be, after he has completed three years continuous service shall be considered for regular appointment in permanent or temporary vacancy as may be available on the basis of his record and suitability before any regular appointment is made in such vacancy in accordance with the relevant service rules or orders."*

*44. The fact that the above rule requires consideration for regularization against permanent or temporary vacancy, before any regular appointment is made in accordance with relevant service rule is of importance and cannot be ignored. The rule*

*making authority was conscious that non consideration of claim for regularization notwithstanding the existence of rule for such purpose may adversely affect the adhoc employee, in the matter of determination of seniority etc. and, therefore, made a specific provision for such regularization under the rules to be considered prior to any regular appointment made in such vacancy in accordance with the relevant service rules. Denial of timely consideration in accordance with the rules for regularization may otherwise deny service and retiral benefits to adhoc employees only because of administrative lethargy on part of the department concerned in processing such claim.*

*45. No valid reasons have otherwise been disclosed for non consideration of claim of respondent/petitioner for regularization after 20.12.2001, particularly when the order dated 21.2.1997 already existed of this Court for regularizing his services. The only plea taken in the counter affidavit to justify belated consideration for regularization is that the State Government directed such claim to be considered only vide order 7.9.2018. This plea of the appellant to explain the delay in consideration of claim for regularization is noticed only to be rejected.*

*46. The regularization rules notified on 20.12.2001 were applicable in respect of all adhoc appointments made prior to 30.6.1998 on posts falling within the purview of the Public Service Commission which included the department of minor irrigation as well and there existed no specific need of any further Administrative/Government order to be issued for the rules of regularization to be given effect to. The post of Junior Engineer in the Department of Minor Irrigation was clearly a post covered by the notification dated 20.12.2001 and issuance of the direction contained in the government order dated 7.9.2018 was not essential and at best reminded the authorities to act as per the notification dated 20.12.2001. Services of various other persons such as Prabhu Nath Singh, Shailendra Pratap Singh, etc. were otherwise regularized much prior to 7.9.2018. The argument that this was done in compliance of the court's order does not inspire confidence as the direction of court existed in favour of respondent/petitioner to be considered for regularization from 1997 itself. The authorities cannot be permitted to pick and choose in the matter of consideration of case for regularization under the orders of court. The authorities of the State, therefore, are not justified in denying consideration to the case of respondent appellant for regularization soon after issuance of notification dated 20.12.2001 and in any view before making any regular appointment in accordance with the relevant service rules by virtue of amended rule 2 (iii).*

28. Thereafter finally in paragraph 48 of the aforesaid judgment, the Co-ordinate Bench at Allahabad held as under:-

*48. We are, therefore, of the view that the claim of respondent/petitioner to be regularized w.e.f. 20.12.2001 in light of the order of the writ court dated 21.2.1997 or in any event prior to regular appointment made in permanent or temporary vacancy in accordance with relevant service rules is liable to be considered by the Chief Engineer concerned in light of our above observations within a period of two months from the date of presentation of a copy of this order. The order of regularization dated 31.12.2018 shall stand amended in terms of the order to be passed by the Chief Engineer. The authorities shall be at liberty to determine the date on which regular appointment on the post in the cadre was made after 20.12.2001, since the benefit of regularization in any event will have to be extended from a date prior to such regular appointment. The appellants, therefore, are commanded to extend all service and retiral benefits, which are found due and payable to the respondent/petitioner within a further period of six weeks, thereafter. The instant special appeal, is therefore, disposed off in the above terms. Parties to bear their own costs.*

29. Having taken the note of the aforesaid, this Court finds that in so far as the present appellants are concerned, their case is also similar to the case of Raj Bahadur Pastor (supra).

28. In so far as the contention of the learned Standing Counsel that the decision of Raj Bahadur Pastor (supra) is not applicable to the present appellants, nor they can be given the benefit thereof, for the reason that the appellants herein were not appointed on *ad hoc* basis is fallacious for the reason that the order of regularization dated 06.09.2006 which has been brought on record as annexure no.16, clearly indicates that a conscious decision was taken by the department extending the benefit of the Rules of 1979 and treating the appellants to be on *ad hoc* basis, which reads as under:-

*"लोक निर्माण विभाग में कार्यरत डिप्लोमाधारी दैनिक वेतन/वर्कचार्ज कर्मचारियों की रिट याचिका सं० 36603/1998 राकेश कुमार त्रिपाठी व अन्य बनाम उ०प्र० सरकार में मा० उच्च न्यायालय इलाहाबाद द्वारा पारित निर्णय दिनांक 30.11.04 याचिका सं० 6737/1999 हृदय नाथ चौबे एवं 107 अन्य बनाम उ०प्र० सरकार में मा० उच्च न्यायालय, इलाहाबाद द्वारा पारित निर्णय दि०*

07.03.2005 तथा रिट याचिका सं० 37582/98, राम सिंह व 17 अन्य बनाम उ० प्र० सरकार में मा० उच्च न्यायालय इलाहाबाद द्वारा पारित निर्णय दि० 25.04.2005 को संज्ञान में लेते हुए शासनादेश सं० -877/23-7-06-198(कोर्ट)/06 दिनांक 17 फरवरी 2006 द्वारा लोक निर्माण विभाग में कार्यरत दैनिक वेतन व वर्कचार्ज के 197 कर्मचारियों के विनियमितीकरण की कार्यवाही उ० प्र० (लोक सेवा आयोग के क्षेत्रान्तर्गत पद पर) तदर्थ नियुक्तियों का विनियमितीकरण नियमावली 1979, यथा संशोधित नियमावली 2001 के नियम-4 के अन्तर्गत तदर्थ कार्मिक मानते हुए उक्त नियमावली में निहित प्राविधानों के अनुसार कार्यवाही किये जाने का अनुमोदन जारी किया गया है। शासनादेश दि 17.02.06 में निहित निर्देशानुसार चयन समिति का गठन कार्यालय ज्ञाप सं०- 1967 ईडी/5319 ईडी/06 दि० 07.03.06 के द्वारा किया गया है। समिति द्वारा क्षेत्रीय अधिकारियों से विभागों में कार्यरत डिप्लोमाधारी दैनिक वेतन/वर्कचार्ज कर्मचारियों के सेवा विवरण एवं अन्य मूल प्रमाणपत्र प्राप्त किये गये थे। समिति की संस्तुति के आधार पर उपरोक्त डिप्लोमाधारी दैनिक वेतन/ वर्कचार्ज कर्मचारियों की ज्येष्ठता सूची जारी की गयी है। समिति की संस्तुतियों को स्वीकार करते हुए लोक निर्माण विभाग में विचाराधीन डिप्लोमाधारी दैनिक वेतन/वर्कचार्ज कर्मियों को अवर अभियन्ता (यांत्रिक) के पद पर वेतनमान रू० 5000-150-8000 पर विनियमितीकरण किये जाने के आदेश निम्न शर्त एवं प्रतिबन्धों के अनुरूप एतद्वारा जारी किये जाते हैं।"

30. Thus, it would be seen that the appellants herein were granted the benefit and were treated as *ad hoc* employees as the same is mentioned in the order of regularization itself. Accordingly, once the appellants had been regularized on 06.09.2006 treating them to be *ad hoc* employees and in any case in view of the orders passed by the learned Single Judge in earlier petition which was filed by the Berojgar Junior Engineers Association and Writ Petition No.2605 (S/S) of 1991, Yogesh Srivastava Vs. State of U.P. & others and Writ Petition No.1400 of 1991, Virendra Kumar Sonkar Vs. State of U.P. & others wherein directions have been issued by the Court which were never set aside, hence it was incumbent upon the respondents to have complied with the same at the earliest and even though the regularization was made in the year 2006 yet they were entitled to the benefit of Amendment of 2001 made in the Rules 1979.

31. Learned Standing Counsel could not dispute the fact that

in the regularization order, the relevant part of which has been reproduced hereinabove it did treat the appellants as ad hoc employees, hence there can be no reason for this Court to differ or to take a different view other than the one taken by the Coordinate Bench of this Court in Raj Bahadur Pastor (supra), Special Appeal No.21 of 2022 which admittedly has been affirmed by the Apex Court.

32. Accordingly, this Court finds that the learned Single Judge was not justified in dismissing the writ petitions and this Court is of the view that the appellants though regularized in the year 2006, their regularization order dated 06.09.2006 shall stand amended in terms of the order to be passed by the Engineer-in-Chief and treat the case of the appellants to have been regularized with effect from 20.12.2001 and thereafter the Authorities shall be at liberty to determine the date on which the regular appointment on the post in the cadre was made after 20.12.2001 since the benefit of regularization will have to be extended from a date prior to such regular appointment. The State Authorities shall also extend all service and retiral benefits which are found due and payable to the appellants and the entire exercise shall be completed within a period of eight weeks.

33. With the aforesaid observations, the instant special appeals are partly allowed. Costs are made easy.

**Order Date :-** April 3, 2024  
ank/-

**(Jaspreet Singh, J.) (Arun Bhansali, C.J.)**