

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.588 of 2023

Smt. Surpriya Chakraborty, D/o Late Sisir Ranjan Chakraborty, resident of Jogendranagar, P.O. – Agartala College, P.S. – East Agartala, District – West Tripura.

..... Petitioner (s);

Versus

1. Tripura University, A Central University, represented by the Registrar, Tripura University, having its office at Suryamaninagar, P.O. Suryamaninagar, Agartala, West Tripura - 799022.
2. The Registrar, Tripura University, having its office at Suryamaninagar, P.O. Suryamaninagar, Agartala, West Tripura - 799022.
3. Dr. K B Jamatia, Joint Registrar, Tripura University, (Chairman) Committee, Suryamaninagar, P.O- Suryamaninagar, Agartala, West Tripura-799022.
4. Dr. B M Pandey, Assistant Professor, Department of Law, Member, Committee, Suryamaninagar, P.O-Suryamaninagar, Agartala, West Tripura-799022.
5. Dr. Muneendra Mishra, Assistant Registrar (I/C), Tripura University, Convenor, Committee, Suryamaninagar, P.O-Suryamaninagar, Agartala, West Tripura-799022.

.....Respondent (s);

For Petitioner (s)	: Mr. Sankar Lodh, Advocate.
For Respondent(s)	: Ms. Uttara Singha, Advocate.
Date of hearing	: 15.09.2025
Date of Judgment & Order	: 09.12.2025
Whether Fit for Reporting	: NO

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

Heard Mr. Sankar Lodh, learned counsel appearing for the petitioner and Ms. Uttara Singha, learned counsel appearing for the respondents-University.

[2] The father of the petitioner, an employee of Tripura University, died in harness on 26.11.2005. The petitioner, being at that time Madhyamik qualified, applied for a job under the Die-in-Harness Scheme on 19.12.2005 and thereafter, the petitioner was engaged as a Daily Rated Worker ('*DRW*', for short) (Group-C) on a temporary basis vide office memorandum dated 27.12.2005 issued by the University Authority. She, accordingly, joined on the following date and since then she has been serving there. Later on, her designation has been changed to Monthly Rated Worker ('*MRW*', for short) (Group-C).

[3] While serving in the University, with the permission of the authority, she prosecuted her further studies and passed Higher Secondary Examination. She also obtained graduation from Tripura University itself under the Distance Education Scheme and then Diploma in Computer Application before 31.03.2010.

[4] It is asserted by her that she has been serving in different wings of the University without any blemish and for some time she was placed in the Vice Chancellor's Secretariat and then in Receipt & Dispatch Section of the Registrar Branch and also in the Directorate of Distance Education, which are all of a perennial nature of works related to the day-to-day functioning of the University.

[5] On 07.05.2007, the University issued a memorandum (Annexure-11) for scrutinizing and examining the feasibility for regularization of the services of DRW/Casual Workers and asked for submission of different documents of the concerned employees, but it is not clear as to what happened thereafter.

[6] The petitioner had been getting fixed wages since her joining the service, which were enhanced from time to time and the University Authority thereafter decided to extend the benefit of 'equal pay for equal work' to 87 Casual/DR Workers vide an office order dated 22.09.2020 (Annexure-17), and the petitioner also got benefit of the same. The financial benefit as provided under the said decision was fixed pay of Rs.19,900/- plus admissible DA to all the employees.

[7] The petitioner submitted one representation on 09.08.2019 (Annexure-14) to the Vice Chancellor of the University for absorbing her into a regular post, as she had already completed more than 13 years of service as an MRW, but till date she has not been so absorbed. She raised one plea in her representation that one Smt. Basanti Debbarma (not a party to the instant writ petition) who was initially employed as a DRW (Group-C) on a temporary basis like the petitioner, after six months of her service was absorbed against the regular post of Lower Division Clerk ('LDC', for short). The respondents, in their counter-affidavit, have categorically denied this assertion, stating that said Smt. Basanti Debbarma appeared in the regular recruitment process, and after qualifying for the examination, she got the regular job. This fact is thus a disputed fact; the Court will not further dwell upon this issue.

[8] Anyway, the petitioner, being unsuccessful in her prayer for her absorption against regular post, preferred WP(C) No.608 of 2021 before this Court. The Coordinate Bench of this Court, vide judgment dated 21.12.2021, taking note of the decisions of the Hon'ble Supreme Court in the case of **Secretary, State of Karnataka & others Versus Umadevi (3) & others, (2006) 4 SCC 1**, and **Narendra Kumar Tiwari & others Versus State of Jharkhand & others, (2018) 8**

SCC 238, observed that the University had no scheme or rule for regularization of DRW or contingent worker on completion of certain period of service and, therefore, the Court was not in a position to pass any order for regularization of the petitioner as a matter of right. It was also further observed that the petitioner was working for more than 15 years and was discharging the regular function of LDC on a fixed remuneration and as per above said decision of the Hon'ble Supreme Court in **Umadevi (3)** (supra) and **Narendra Kumar Tiwari** (supra), on completion of 10(ten) years of service, one contingent or daily rated worker should be regularized. Therefore, the Bench directed the University-respondents to consider the absorption of the petitioner in the post of Lower Division Clerk by granting relaxation wherever is necessary within three months from the date of receipt of copy of that order.

[9] In terms of the said judgment, a committee was constituted by the University Authority to scrutinize the case of the petitioner but no decision was ever communicated to her. After waiting for more than six months, the petitioner filed a contempt application bearing Cont. Cas (C) No.85/2022 and thereafter, the respondents filed an appeal bearing W.A. No.159/2022 before this Court. The Division Bench of this Court, thereafter, dismissed the said appeal without any interference making the following observations:

"6. We have considered the submissions of the learned counsel for the parties and taken note of the relevant material facts placed on the record. We have also perused the impugned judgment. In our view, there is no specific direction upon the respondents to absorb the petitioner by the Writ Court. The Writ Court has only directed the respondents to consider the case of the petitioner for absorption in the post of LDC. Needless to say, such consideration has to be made in

accordance with law taking into account all relevant criteria which are applicable for such regularization. The respondents instead of taking a decision in the matter have approached this Court in appeal. As such, we do not find any reason to interfere in the impugned judgment. The learned counsel for the appellants submits that the time period for consideration of the claim of the petitioner may be extended as the respondent-University has been pursuing this appeal. Be that as it may, let such consideration be made within a period of three months from the date of receipt of the copy of this order.

7. The appeal is accordingly dismissed without any interference.

Pending application(s), if any, also stands disposed of."

Thus, the Division Bench of this Court directed the University Authority to consider the case of the petitioner, in accordance with law, taking into account all relevant criteria that are applicable for such regularization.

[10] Before learned Writ Court, it was argued that there was no rule or scheme under the University for regularization of the services of such categories of employees and that no document was produced by the petitioner that she had the typing speed of 30 words per minute. Before the Division Bench, it was argued on behalf of the University that there was no vacant sanctioned post at the relevant point of time when the petitioner was engaged on compassionate grounds. Therefore, it appears that different stands were taken before the two Courts by the University at the time of hearing. In the present case, the stand of the University is that there is no scheme or system for regularization of service as of date, and that the petitioner was appointed as a DRW on a temporary basis and not on account of any die-in-harness ground.

[11] Mr. Sankar Lodh, learned counsel for the petitioner, advertent to the facts of the case, submits that despite such

longstanding service of the petitioner in important chairs of the different departments/ sections of the University discharging duties of a perennial nature, she has not been regularized and that despite the directions of the Court, the University failed to take into consideration as to what were observed by the High Court and denied her prayer of regularization simply on the ground that the University had time and again instructed her to apply for a regular post whenever an advertisement was issued and, therefore, she could not be regularized in the manner she claimed. Mr. Lodh, learned counsel for the petitioner, further submits that such an approach of the University authority is arbitrary and unconstitutional and that the petitioner has illegally been put under exploitative employment.

[12] Mr. Lodh, learned counsel for the petitioner, relies on some recent decisions of the Hon'ble Supreme Court in support of his submissions which are referred hereunder:

(i) *Shripal and another Versus Nagar Nigam, Ghaziabad, 2025 SCC OnLine SC 221* – In this case, the appellants workmen were engaged as Gardeners (Malis) in the Horticulture Department since the year 1998 and was discharging horticultural and maintenance duties such as planting trees, maintaining parks, and beautifying public spaces under the direct supervision of the Municipal Authority. When he, along with other similarly situated persons claimed for their regularization, they were terminated in 2005 orally. Finally, the Hon'ble Supreme Court observed that the appellant workmen had performed duties integral to the municipal functions and, therefore, the general ban of the State Government on fresh recruitment cannot be used to deny labour protections to long-serving workmen. It was also

further observed that the appellants continuously rendered their services over several years, sometimes spanning more than a decade and the Indian labour law strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature. Finally, the Hon'ble Supreme Court quashed the termination of the said workmen and they were directed to be reinstated in their service, treating it to be a continuous service as if no termination had taken place.

(ii) ***Jaggo Versus Union of India and others with Anita and others Versus Union of India and others, AIR 2025 SC 296: AIR Online 2024 SC 870*** – In this case, it was observed that the appellants were engaged as part-time worker on *ad-hoc* basis in Central Water Commission during the period from 1993 to 1999 as Safaiwali who were primarily responsible for cleaning and maintaining the office premises and one of the appellants was appointed as a Khallasi/Mali. They sought regularization of their services and being refused thereby ultimately they approached the Hon'ble Supreme Court. While dealing with their such claim, the Hon'ble Supreme Court found despite being labelled as "part-time workers," the appellants were performing essential tasks on a daily and continuous basis over extensive periods, ranging from over a decade to nearly two decades. Regarding the law laid down in ***Umadevi (3)*** (supra), the Apex Court at paragraph-20 observed that the decision in ***Umadevi (3)*** (supra) did not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. Rather, said judgment sought to prevent backdoor entries and illegal appointments but where the 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 became 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. But the Government Departments often cite the judgment in ***Umadevi (3)*** (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 and this selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades. Finally, the Apex Court directed that the services of said appellants be regularized.

(iii) In ***Dharam Singh & Others Versus State of U.P. & Another, [Civil Appeal No(s).8558 of 2018*** decided on ***19.08.2025]***, as relied on by Mr. Lodh, learned counsel, it was observed at the prelude of the judgment itself that when public institutions depend, day after day, on the same hands to perform permanent tasks, equity demands that those tasks are placed on sanctioned posts, and those workers are treated with fairness and dignity. In that case the appellants were engaged on daily-wage basis as Class-IV employees and Driver (Class-III). In U.P. Higher Education Services Commission there were no rule for regularization and no vacancies existed against which the appellants could be considered. In said backdrop, while granting regularization of service of appellants of those cases, the Hon'ble Supreme Court also observed that the State was held to a higher standard and therefore it must organise its perennial workers on a sanctioned footing, create a budget for lawful

engagement, and implement judicial directions in letter and spirit. Delay to follow these obligations is not mere negligence but rather it is a conscious method of denial that erodes livelihoods and dignity for these workers. It was also held that “*ad hocism*” thrives where administration is opaque and the State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious engagement over sanctioned posts where the work is perennial.

[13] Ms. Uttara Singha, learned counsel for the respondents-University, submits that the petitioner was not appointed on Die-in-Harness Scheme and that appointment was also not against any sanctioned post and moreover, there was no policy or scheme of the University for regularization of its employee and in view of above, her regularization was not permissible.

[14] Ms. Singha, learned counsel also relies on the decision of the Constitution Bench of the Hon’ble Supreme Court rendered in the case of ***Umadevi (3)*** (supra). Ms. Singha, learned counsel for the respondents-University further relies on some decisions of the Hon’ble Supreme Court in support of her submissions which are also referred hereunder:

(i) ***State of Karnataka & others Versus M. L. Kesari & others, (2010) 9 SCC 247*** – In this case, the Hon’ble Supreme Court observed that 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. It was also further observed that **Umadevi (3)** (supra) casts a duty upon the Government or instrumentality concerned, to take steps to regularize the services of those irregularly appointed employees who had served for more than ten years without the benefit or protection of any interim orders of Courts or tribunals, as a one-time measure and that the object behind the direction given in **Umadevi (3)** (supra) was 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 decision in **Umadevi (3)** (supra) was rendered, should be considered for regularization in view of their long service and also secondly 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.

(ii) In **Sri Satya Ranjan Dey and another Versus the State of Tripura and others, [WP(C) NO.5/2023]** decided on **06.09.2023**, as relied on by Ms. Singha, learned counsel, a Coordinate Bench of this Court regarding the prayer of regularization of service of the petitioners of that case against Group-D post rejected such claim of regularization on several grounds amongst which some grounds were that there was no sanctioned post and that they are not appointed with the concurrence of Finance Department and that there was considerable delay in approaching the Court with such prayer of regularization when already the State Government had withdrawn the policy of

regularization. Said case, unlike the present case in hand, was decided mainly based on the scheme of regularization as framed by the State Government for his employees and subsequent withdrawal of such scheme after such process of regularization was completed.

[15] In the present case, as it has been the stand of the University Authority that they have no regularization scheme framed for regularization of those persons who were irregularly appointed and have continued to serve the institution for more than a decade. The petitioner was given appointment on 27.12.2005 and the judgment of **Umadevi (3)** (supra) was passed by the Constitution Bench of the Hon'ble Supreme Court thereafter on 10.04.2006 to stop the practice of appointment of any person without following the constitutional scheme and the procedure of regular appointment. **Umadevi (3)** (supra) completely discouraged such policy adopted by different institutions for appointment of persons without following the due procedure of the prescribed rules of such appointment and as a onetime measure, it was directed at paragraph No.53 of the said judgment that there might be cases where irregular appointments (not illegal appointments) of duly qualified persons in duly sanctioned vacant posts had been made and those employees had continued to work for ten years or more and in that contexts, the Union of India and the State Government and their instrumentalities were directed to take steps to regularize the services of such irregularly appointed persons, who have worked for ten years or more in duly sanctioned posts.

[16] When such decision of the Hon'ble Supreme Court was rendered, Tripura University was functioning as the State University and thereafter, it started functioning as a Central University w.e.f.

02.07.2007. In both status, the University in compliance with the direction given in **Umadevi (3)** (supra) ought to have framed a scheme for such regularization. Instead, without doing so, they started taking the fruit of labour of the person like the petitioner who was appointed on a temporary basis by engaging her in the works or duties of the University which were of perennial in nature.

[17] If there was no scheme framed for giving appointments in die-in-harness cases, it is not clear as to what had prompted the University Authority to appoint the present petitioner as DRW (Group-C). Though it had been once the plea of the University that there was no sanctioned post when she had claimed her regularization, it appears that on 23.11.2020, the University itself issued an advertisement for filling up of 10(ten) nos. of posts of LDC and some other Group-C and Group-B posts. In previous litigation before the Division Bench also the University argued that there was no vacant sanctioned post at the relevant point of time when she was engaged on compassionate appointment. However, after taking note of said submission, the Division Bench of this Court maintained direction of the learned Single Judge and asked University to consider the case of the petitioner, in accordance with law, taking into account all relevant criteria which are applicable for such regularization.

[18] However, from the impugned minutes of meeting dated 16.05.2023 (Annexure-27) it appears that the University has not at all taken into consideration of all the above said relevant factors which as per law ought to have been taken into consideration. They simply rejected the claim of the petitioner on the ground that she was asked to apply for a regular post whenever such advertisement for filling up of

such posts was published but she did not appear. This compliance was not at all in spirit of what the Court had directed the University to do.

[19] In view of above, the decision of the University rejecting the prayer of the petitioner for regularization as borne in the minutes of meeting dated 16.05.2023 (Annexure-27) is hereby quashed. The respondents are again directed to consider the prayer of the petitioner for her regularization in service taking into account what has been directed by the Division Bench of this Court in previous litigation and also all the relevant factors and also in the light of the decisions of the Hon'ble Supreme Court as indicated above and other decisions in this regard.

[20] A reasoned decision shall be taken by the respondents within 4(four) weeks from the date of receipt of a copy of this order. The respondent nos.3, 4 and 5 have been arrayed in this writ petition by their respective names but the directions so issued in this case will be applicable to the respondents not against their personal capacity rather against their official capacity.

With such observations and directions, the instant Writ Petition stands disposed of.

Pending application(s), if any, also stands disposed of.

JUDGE