

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO. 9757 OF 2023 (S-KSAT)

BETWEEN:

1. SHRI B. SRIKANTIAH,
S/O LATE BASAVIAH,
AGED ABOUT 55 YEARS,
WARDEN, GOVERNMENT BOYS HOSTEL,
KUDERU, CHAMARAJANAGAR TALUK,
CHAMARAJANAGAR DISTRICT.
RESIDENTIAL ADDRESS:
SANTHEMARANAHALLI,
CHAMARAJANAGAR TALUK/DISTRICT – 571 115.
2. SHRI JAGADISH,
S/O LATE M. BASAVIAH,
AGED ABOUT 55 YEARS,
WARDEN, GOVERNMENT BOYS HOSTEL,
HARAVE, CHAMARAJANAGAR TALUK,
CHAMARAJANAGAR DISTRICT.
RESIDENTIAL ADDRESS:
NO.LIG KHB COLONY, NO.19/1,
MAHADEVAPURA II STAGE,
UDAYAGIRI, MYSORE – 570 019.

...PETITIONERS

(BY SRI VIGNESHWAR S. SHASTRY, SR. COUNSEL A/W
SRI GURURAJ R., ADVOCATE)

AND:

1. STATE OF KARNATAKA,
REPRESENTED BY ITS
SECRETARY TO GOVERNMENT,
DEPARTMENT OF SOCIAL WELFARE,

VIKASA SOUDHA,
BANGALORE – 560 001.

2. COMMISSIONER,
SOCIAL WELFARE DEPARTMENT,
5TH FLOOR, M S BUILDING,
BANGALORE – 560 001.

...RESPONDENTS

(BY SRI HARSHA A. S., AGA FOR R1 & R2)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION QUASHING THE ENDORSEMENT DATED 14.11.2017 ISSUED BY RESPONDENT NO.2 IN NO.SKNI.SIBBANDI.6/CR.91/2015-16 AS PER ANNEXURE A17 AND ENDORSEMENT DATED 14.11.2017 ISSUED BY RESPONDENT NO.2 IN NO.SKNI.SIBBANDI 6/CR-91/2015-16 AS PER ANNEXURE A18 RESPECTIVELY TO THE APPLICATION NO.1005-06/2020 AND ETC.,

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 29.07.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

(PER: HON'BLE DR. JUSTICE K.MANMADHA RAO)

The petitioners have called in question the endorsements dated 14.11.2017 issued by the respondent No.2 in No.SKNI.Sibbandi.6/CR.91/2015-16 and No.SKNI.Sibbandi.6/CR.91/2015-16, the order dated 07.02.2023 passed by the Karnataka State Administrative

Tribunal, Bengaluru, in Application Nos.1005-1006/2020 and have sought a consequential direction to the respondents to regularize their services with effect from the date on which they completed ten years of continuous service together with all consequential benefits.

2. The brief facts of the case are that:-

The case of the petitioners, in brief, is that they were appointed as Hostel Superintendents/Hostel Wardens in the Social Welfare Department on daily wage basis against sanctioned vacant posts and have continued in service without the intervention of any order passed by any Court or Tribunal. According to them, the first petitioner was appointed on 21.11.1994 in the Government Boys Hostel, Chamarajanagara and is presently working at Government Boys Hostel, Kuderu, while the second petitioner was appointed on 21.11.1994 in the Government Boys Hostel, Harave, Chamarajanagara District. It is their assertion that they have rendered uninterrupted service for more than ten years and continue to remain in service.

3. The petitioners place reliance upon the decision of the Constitution Bench of the Apex Court in ***Secretary, State of Karnataka and Others v. Umadevi and Others***, reported in **(2006) 4 SCC 1**. According to them, subsequent to the said

judgment, the Government issued circulars dated 25.05.2006 and 13.11.2006 providing for consideration of eligible employees for regularization as a one-time measure. It is contended that after completing more than ten years of service, the petitioners and other similarly situated employees sought regularization of their services, and when no action was taken, they approached this Court in the case of ***Sri Raju M and others v. The Stat of Karnataka and others*** by order dated **18.04.2007**, passed in **W.P.No.6228/2007**.

4. It is stated that this Court, by order dated **18.04.2007** in **W.P.No.6228/2007**, directed the respondents to consider the representations submitted by the petitioners in the light of the judgment in ***Umadevi's case supra*** and the circulars issued by the State Government and to pass appropriate orders within six months. The petitioners contend that their names were included at Sl.Nos.36 and 3 respectively in the said proceedings. Pursuant thereto, correspondence ensued between the authorities. The first respondent addressed communications dated 02.07.2007 and 21.02.2008 to the respondent No.2 seeking necessary particulars. The District Social Welfare Officer, Chamarajanagara, furnished service particulars of the petitioners on 06.09.2007 and thereafter the

respondent No.2, by recommendation dated 30.04.2008, is stated to have recommended regularization of the services of the petitioners and other similarly situated employees.

5. The petitioners further contend that notwithstanding the aforesaid recommendation, the second respondent issued an endorsement dated 14.11.2008 declining regularization on the ground that their services had been continued because of interim orders passed in certain proceedings. According to the petitioners, one of the similarly situated employees, namely **Revanna.S**, who was also a petitioner in **W.P.No.6228/2007**, challenged the endorsement before the Tribunal in Application No.942/2009 and the Tribunal, by order dated 09.03.2012, quashed the endorsement and directed reconsideration of the claim for regularization in accordance with law. It is stated that the petitioners thereafter submitted representations seeking similar relief.

6. The petitioners assert that as no decision was taken thereafter, they again approached the Tribunal in Application Nos.7338-7340/2014. The Tribunal directed the respondents to consider the representation dated 29.03.2012 in the light of the order passed by this Court in W.P.No.6228/2007, the order dated 09.03.2012 passed in Application No.942/2009 and the

relevant Government Orders. According to the petitioners, despite the said directions, the second respondent once again issued endorsements dated 14.11.2017 reiterating the earlier stand. The petitioners contend that they sought reconsideration of the matter in the light of the Division Bench judgment dated 29.10.2013 in W.P.No.15716/2013 and the decision of the Apex Court ***in State of Karnataka and Others v. M.L. Kesari and Others***, reported in ***(2010) 9 SCC 247***. Reference is also made to representations submitted before the Chief Minister, the Social Welfare Department and the authorities concerned during the years 2018 and 2019 seeking reconsideration of the endorsements. It is further contended that several departments of the State have regularized similarly situated daily wage employees and that even S.Revanna came to be regularized pursuant to the judgment of the Apex Court in ***Civil Appeal No.5292/2019 dated 09.07.2019***.

7. The Tribunal, by the impugned order dated 07.02.2023 passed in Application Nos.1005-1006/2020, dismissed the applications both on the ground of delay and on merits. The Tribunal held that the endorsements dated 14.11.2017 had not been challenged within the period prescribed under the Administrative Tribunals Act, 1985 and

that the explanation offered for the delay was not satisfactory. The Tribunal observed that the petitioners had not produced any appointment orders to establish that they had been appointed against sanctioned posts and consequently failed to satisfy the requirements governing regularization under the decision in ***Umadevi's case supra.*** .

8. The Tribunal further took note of the fact that the petitioners had been brought within the ambit of the Karnataka State Daily Wage Employees Welfare Act, 2012 and were receiving benefits thereunder and held that they had no enforceable legal right to seek permanent absorption into civil posts or civil service of the State. Accordingly, the applications came to be dismissed both on the ground of limitation and on merits.

9. Learned counsel for the petitioners contends that the endorsement dated 14.11.2008 had already been quashed by the Tribunal in Application No.942/2009 and connected matters and, therefore, the subsequent endorsements dated 14.11.2017 merely reiterating the earlier position could not have been treated as having attained finality. The Tribunal erred in holding that the petitioners were not working against sanctioned posts. According to the petitioners, they were

appointed against sanctioned vacant posts in the Social Welfare Department and have continued in service uninterruptedly from 21.11.1994.

10. It is contended that the petitioners were brought within the ambit of the Karnataka State Daily Wage Employees Welfare Act, 2012 without their consent and that they had never relinquished their claim for regularization in terms of the law laid down by the Apex Court. It is further contended that the petitioners have worked continuously for more than twenty-eight years as Hostel Wardens/Hostel Superintendents without the protection of any interim order passed by any Court or Tribunal and that their services are liable to be regularized in the light of the decisions of the Apex Court in ***Umadevi's case supra***, ***M.L. Kesari's case supra***, and the judgment rendered in ***Civil Appeal No.5292/2019*** dated **09.07.2019** in ***State of Karnataka and Others v. S.Revanna***. It is urged that the respondents were bound to extend to the petitioners the same benefit that was extended to S.Revanna and other similarly situated employees.

11. It is contended that several departments of the State Government, including the General Administrative Training Institute, Mysuru, Zilla Panchayats and other

establishments, have regularized the services of similarly situated daily wage employees after the decision in ***Umadevi's case supra***, and that denial of similar treatment to the petitioners is arbitrary, discriminatory and violative of Articles 14 and 21 of the Constitution of India. It is submitted that the Tribunal failed to consider the earlier directions issued by this Court and by the Tribunal itself and that the dismissal of the applications is contrary to the principles governing regularization of eligible daily wage employees, warranting interference under Articles 226 and 227 of the Constitution of India.

12. In support of the contentions, learned counsel for the petitioners has placed reliance on the following judgments:-

- ***Jaggo v. Union of India and others*** reported in **2024 SCC OnLine SC 3826**;
- ***Bhagwati Prasad and others v. Delhi State Mineral Development Corporation*** reported in **(1990) 1 SCC 361**; and
- ***The State of Karnataka and another v. Smt. Lakshmi Devi*** by order dated **11.03.2026** passed in **W.P.No.37850/2025 (S-KSAT)**.

13. Learned Additional Government Advocate appearing for the respondents supports the impugned order and submits that the petitioners have no legal right to seek regularization. The claim of the petitioners was examined by the Government pursuant to the directions issued by this Court and, upon verification of the cases of 734 daily wage employees of the Social Welfare Department, the Government, by communication dated 17.10.2008, found that none of them, including the petitioners, satisfied all the requirements prescribed in paragraph 44 of the decision of the Apex Court in ***Secretary, State of Karnataka and Others vs. Umadevi and Others***, reported in **(2006) 4 SCC 1**. According to the respondents, the petitioners failed to satisfy the eligibility criteria prescribed for regularization and, therefore, their request was rightly rejected.

Para 44 of the ***Umadevi's case*** (*supra*) reads as under:-

44. *The concept of "equal pay for equal work" is different from the concept of conferring permanency on those who have been appointed on ad hoc basis, temporary basis, or based on no process of selection as envisaged by the rules. This Court has in various decisions applied the principle of equal pay for equal work and has laid down the parameters for the application of that principle. The decisions are rested on the concept of equality enshrined in our Constitution in the light of the directive principles in*

that behalf. But the acceptance of that principle cannot lead to a position where the court could direct that appointments made without following the due procedure established by law, be deemed permanent or issue directions to treat them as permanent. Doing so, would be negation of the principle of equality of opportunity. The power to make an order as is necessary for doing complete justice in any cause or matter pending before this Court, would not normally be used for giving the go-by to the procedure established by law in the matter of public employment. Take the situation arising in the cases before us from the State of Karnataka. Therein, after Dharwad decision [(1990) 2 SCC 396 : 1990 SCC (L&S) 274 : (1990) 12 ATC 902 : (1990) 1 SCR 544] the Government had issued repeated directions and mandatory orders that no temporary or ad hoc employment or engagement be given. Some of the authorities and departments had ignored those directions or defied those directions and had continued to give employment, specifically interdicted by the orders issued by the executive. Some of the appointing officers have even been punished for their defiance. It would not be just or proper to pass an order in exercise of jurisdiction under Article 226 or 32 of the Constitution or in exercise of power under Article 142 of the Constitution permitting those persons engaged, to be absorbed or to be made permanent, based on their appointments or engagements. Complete justice would be justice according to law and though it would be open to this Court to mould the relief, this Court would not grant a

relief which would amount to perpetuating an illegality.

14. It is further contended that the continuance of daily wage employees appointed after 01.07.1984 was protected by virtue of the interim order dated 11.04.1990 passed in W.P.No.8192/1990 and the consequential Government Circular dated 13.10.1992. Reliance is also placed upon the Government Circulars dated 25.05.2006 and 13.11.2006, wherein the conditions governing regularization were reiterated. According to the respondents, one of the essential requirements under the scheme flowing from **Umadevi's case** (*supra*) is that the employee should not have continued in service under the protection of orders of Courts or Tribunals and, therefore, the petitioners do not satisfy the prescribed conditions for regularization.

15. The respondents further contend that after the enactment of the Karnataka Daily Wage Employees Welfare Act, 2012, notified on 15.02.2013, the petitioners became governed by the statutory framework applicable to daily wage employees. Under the said enactment, eligible employees are entitled to the benefits contemplated therein, but the statute does not envisage absorption into regular civil service. It is

therefore contended that the petitioners cannot claim regularization contrary to the scheme of the Act. It is also contended that the representations submitted by the petitioners were reconsidered pursuant to the directions issued by the Tribunal and, upon such reconsideration, the endorsements dated 14.11.2017 came to be issued in accordance with law.

16. In support of his contentions learned AGA appearing for the respondents has placed reliance on the following judgments:-

- ***Union of India and others v. Ilmo Devi and another* reported in (2021) 20 SCC 290;**

13. *The observations made in para 9 are on surmises and conjectures. Even the observations made that they have worked continuously and for the whole day are also without any basis and for which there is no supporting evidence. In any case, the fact remains that the respondents served as part-time employees and were contingent paid staff. As observed above, there are no sanctioned posts in the Post Office in which the respondents were working, therefore, the directions issued by the High Court in the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] are not permissible in the judicial review under Article 226 of the Constitution. The High Court cannot, in*

exercise of the power under Article 226, issue a mandamus to direct the Department to sanction and create the posts. The High Court, in exercise of the powers under Article 226 of the Constitution, also cannot direct the Government and/or the Department to formulate a particular regularisation policy. Framing of any scheme is no function of the Court and is the sole prerogative of the Government. Even the creation and/or sanction of the posts is also the sole prerogative of the Government and the High Court, in exercise of the power under Article 226 of the Constitution, cannot issue mandamus and/or direct to create and sanction the posts.

14. *Even the regularisation policy to regularise the services of the employees working on temporary status and/or casual labourers is a policy decision and in judicial review the Court cannot issue mandamus and/or issue mandatory directions to do so. In R.S. Bhonde [State of Maharashtra v. R.S. Bhonde, (2005) 6 SCC 751 : 2005 SCC (L&S) 907] , it is observed and held by this Court that the status of permanency cannot be granted when there is no post. It is further observed that mere continuance every year of seasonal work during the period when work was available does not constitute a permanent status unless there exists a post and regularisation is done.*

15. xxx

16. *Thus, as per the law laid down by this Court in the aforesaid decisions part-time employees are not entitled to seek regularisation as they are not working against any sanctioned post and there cannot be any permanent continuance of part-time temporary*

employees as held. Part-time temporary employees in a Government run institution cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work.

17. *Applying the law laid down by this Court in the aforesaid decisions, the directions issued by the High Court in the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] , more particularly, directions in paras 22 and 23 are unsustainable and beyond the power of the judicial review of the High Court in exercise of the power under Article 226 of the Constitution. Even otherwise, it is required to be noted that in the present case, the Union of India/Department subsequently came out with a regularisation policy dated 30-6-2014, which is absolutely in consonance with the law laid down by this Court in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , which does not apply to the part-time workers who do not work on the sanctioned post. As per the settled preposition of law, the regularisation can be only as per the regularisation policy declared by the State/Government and nobody can claim the regularisation as a matter of right dehors the regularisation policy. Therefore, in absence of any sanctioned post and considering the fact that the respondents were serving as a contingent paid part-time Safai Karamcharies, even otherwise, they were not entitled for the benefit of regularisation under the regularisation policy dated 30-6-2014.*

- ***Sri. Venkataraju V v. State of Karnataka and others*** by order dated **10.03.2025**, passed in **W.P.No.4268/2022**.

17. Heard learned counsel appearing for the petitioners as well as learned AGA appearing for the Respondents No.1 and 2.

18. Having considered the contentions advanced and upon perusal of the material placed on record and the citations relied upon by the learned counsel and AGA for the parties, this Court is of the considered opinion that no ground is made out to interfere with the order dated 07.02.2023 passed by the Karnataka State Administrative Tribunal, Bengaluru, in Application Nos.1005-1006/2020. The case of the petitioners is founded on the assertion that they were appointed as Hostel Superintendents/Hostel Wardens on daily wage basis on 21.11.1994, have continued in service uninterruptedly for more than ten years and are therefore entitled to regularization in terms of the Constitution Bench decision of the Apex Court in Secretary, **Umadevi's** case *supra* as explained in **M.L. Kesari's** case *supra*.

19. The law governing regularization of temporary, casual and daily wage employees is no longer *res integra*. In

Umadevi's case supra the Constitution Bench held that public employment must conform to the constitutional scheme embodied under Articles 14 and 16 of the Constitution of India and that regularization cannot be resorted to as a mode of recruitment. While carving out a limited exception in paragraph 44 of the judgment in ***Umadevi's case supra***, the Apex Court directed consideration, as a one-time measure, of those employees who had worked for ten years or more in duly sanctioned vacant posts, possessed the requisite eligibility and whose continuance was not protected by orders of Courts or Tribunals. The conditions stipulated therein are cumulative in nature and the benefit contemplated therein can be extended only when all such requirements stand satisfied.

20. In the present case, though the petitioners contend that they were appointed against sanctioned vacant posts and have continuously discharged duties as Hostel Superintendents/Hostel Wardens from the year 1994, no material has been placed on record to establish that their initial engagement was against duly sanctioned vacant posts. The Tribunal has recorded a finding that no appointment orders or other records evidencing appointment against sanctioned vacancies were produced. Mere long continuance in service

cannot, by itself, lead to a presumption that the engagement was against sanctioned posts so as to attract the exception carved out in ***Umadevi's case supra***.

21. The record further discloses that pursuant to the directions issued by this Court in W.P.No.6228/2007, the Government undertook verification of the cases of 734 daily wage employees of the Social Welfare Department. Upon such scrutiny, the Government, by communication dated 17.10.2008, found that none of the employees concerned, including the present petitioners, satisfied all the requirements prescribed for consideration under the law laid down in ***Umadevi's case supra***.

22. It is also not in dispute that the Government Circulars dated 25.05.2006 and 13.11.2006 prescribed the conditions governing consideration of daily wage employees for regularization. The material on record further discloses that the petitioners were not found to satisfy the eligibility requirements prescribed under the said Circulars. Apart from asserting entitlement to regularization, the petitioners have not placed any material to dislodge the finding recorded by the Competent Authority. In the absence of material demonstrating compliance with the prescribed eligibility requirements and other conditions

governing regularization, no enforceable right to seek regularization can be recognized.

23. The contention of the petitioners that they have rendered more than twenty-eight years of service and therefore deserve regularization cannot be accepted. Length of service, howsoever long, does not by itself confer a legal right to be absorbed into regular service. The Constitution Bench in ***Umadevi's case supra*** has categorically held that continuance in service for a considerable period cannot override the constitutional requirement of recruitment through a lawful process. The claim for regularization must necessarily be tested on the touchstone of the conditions prescribed in law and not merely on the duration of service rendered.

24. Much emphasis was placed on the orders passed in the earlier rounds of litigation, namely the order dated 09.03.2012 in Application No.942/2009 and the subsequent directions issued in Application Nos.7338-7340/2014. However, a careful examination of the record indicates that the earlier proceedings resulted only in directions for reconsideration of the petitioners' claim. Neither this Court nor the Tribunal had issued any direction mandating regularization. Pursuant to such directions, the Competent Authority reconsidered the matter

and issued the endorsements dated 14.11.2017. Therefore, it cannot be said that the respondents acted in disregard of any binding judicial direction.

25. The contention that the petitioners were brought within the ambit of the Karnataka State Daily Wage Employees Welfare Act, 2012 without their consent is also devoid of merit. After the enactment and notification of the said Act on 15.02.2013, the petitioners became entitled to the benefits contemplated thereunder. However, the Act does not confer any statutory right of absorption into civil service nor does it provide for automatic regularization. The Tribunal was therefore justified in observing that coverage under the said enactment cannot furnish a legal basis for claiming permanent absorption into Government service.

26. The Tribunal has further held that the challenge to the endorsements dated 14.11.2017 was barred by limitation. The applications questioning the said endorsements were instituted only in the year 2020. The explanation offered by the petitioners that representations were submitted before various authorities during the years 2018 and 2019 cannot extend the period prescribed under the Administrative Tribunals Act, 1985. It is well settled that repeated representations do not create a

fresh cause of action nor do they revive a stale claim. The Tribunal was therefore justified in holding that the applications were liable to be rejected on the ground of delay and laches.

27. The reliance placed on the regularization of ***S.Revanna's case supra***, pursuant to the judgment rendered in Civil Appeal No.5292/2019 dated 09.07.2019 and the assertion that similarly situated employees in other departments have been regularized do not advance the case of the petitioners. The entitlement of an employee to regularization depends upon satisfaction of the conditions prescribed by law and the facts governing the individual case. Merely because relief has been granted to another employee in separate proceedings does not automatically confer a corresponding right upon the petitioners. The doctrine of equality does not envisage negative equality.

28. The decisions relied upon by the petitioners in ***Jaggo's case supra***, ***Bhagwati Prasad's case supra***, and the decision of this Court in ***W.P.No.37850/2025*** dated ***11.03.2026*** do not assist the petitioners in the peculiar facts of the present case. On the other hand, the principles reiterated by the Apex Court in ***Ilmo Devi's case supra*** support the stand of the respondents that regularization cannot be claimed as a matter of right and that, in the absence of fulfilment of the

prescribed requirements, no direction for regularization can be issued in exercise of writ jurisdiction.

29. It is therefore, observed that on consideration of the entire material on record, this Court is satisfied that the petitioners have failed to establish any legal entitlement to regularization. The findings recorded by the Tribunal both on limitation and on merits are supported by the material available on record and do not disclose any perversity, arbitrariness, jurisdictional error or other infirmity warranting interference under Articles 226 and 227 of the Constitution of India.

30. For the aforesaid reasons, this Court finds no ground to interfere with the impugned order passed by the Tribunal. Accordingly, the writ petition shall stand ***dismissed***.

No order as to costs.

Pending interlocutory applications, if any, shall stand disposed of.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(DR.K.MANMADHA RAO)
JUDGE**

BNV