



CNR: KAHC010548922018

NC: 2026:KHC:46088
WP No. 46902 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 46902 OF 2018 (S-REG)

BETWEEN:

DR N K VENKATEGOWDA
S/O KARIGOWDA
AGED ABOUT 45 YEARS
LECTURER IN HISTORY
VIJAYA FIRST GRADE COLLEGE
PANDAVAPURA, MANDYA DISTRICT-571434.

...PETITIONER

(BY SRI. MURALIDHAR K B., ADVOCATE)

AND:

1. STATE OF KARNATAKA BY ITS
PRINCIPAL SECRETARY TO GOVERNMENT
EDUCATION DEPARTMENT
(HIGHER EDUCATION)
M S BUILDINGS, BENGALURU-560001.
2. THE COMMISSIONER
FOR COLLEGIATE EDUCATION
IN KARNATAKA PALACE ROAD
BENGALURU-560001.
3. THE REGIONAL JOINT DIRECTOR
OF COLLEGIATE EDUCATION
MYSURU-570001.
4. VIDYA PRACHARA SANGHA ®

Digitally signed
by VARSHA N
RASAIKAR
Location: HIGH
COURT OF
KARNATAKA



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REP. BY ITS SECRETARY
PANDAVAPURA-571434
MANDYA DISTRICT.

...RESPONDENTS

(BY SMT. MAMATHA SHETTY, AGA FOR R1 TO R3:
R4 SERVED THROUGH H/S)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED LETTER BEARING NO: KAA.SHI.E/ 211/ KHAA:HA.BHA/2007-08/ NE.PAA-3/ BHAAGA-2 DATED 14.07.2017 OF THE 2ND RESPONDENT (ANNEXURE - H) HOLDING THE SAME AS ILLEGAL, BAD IN LAW, ARBITRARY ONE VIOLATIVE OF ARTICLES 14 & 16 OF THE CONSTITUTION OF INDIA AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI

ORAL ORDER

The petitioner filed this writ petition seeking the following reliefs:

"i) Issue WRIT OF CERTIORARI quashing the Impugned Letter bearing No.Kaa.Shi.E /211/ dated Khaa.Hu.Bha/ 2007-08 / Ne.Paa-3 /Bhaaga-2 14.07.2017 of the 2nd Respondent (ANNEXURE - H) holding the same as illegal, bad in law, arbitrary one violative of Articles 14 & 16 of



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the Constitution of India, in the interest of justice and equity.

ii) Issue WRIT OF MANDAMUS directing the Respondents to consider approval of appointment of the Petitioner from the date of his appointment as Lecturer in History and/or to regularize his services in the post of Lecturer in History with all consequential service and monetary benefits, in the interest of justice.

iii) Pass such other Order/orders as this Hon'ble Court deems fit and just in the matter in the interest of justice."

2. The brief facts leading to filing of this writ petition are as follows:

One M.S.Mariswamy Gowda, Lecturer in History, resigned from the Vijaya First Grade College, Pandavapura run by the respondent No.4-Management, thus the post of a Lecturer in History became vacant. Hence, respondent No.4-Management addressed letters to the concerned Authorities seeking permission to fill up the vacant post of Lecturer in History. Respondent No.4-Management selected and appointed the petitioner as part time Lecturer



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in History against the sanctioned and vacant post available in Vijaya First Grade College, Pandavapura, Mandya District and instructed to report for duty on or before 08.07.2004. The petitioner reported for duty as Lecturer in History on 07.07.2004. The petitioner filed W.P.No.18152/2011 seeking direction to respondents to consider approval of appointment of the petitioner from the date of his appointment as Lecturer in History or to regularize his services in the post of Lecturer in History as the case may be and to pass appropriate suitable orders. This Court vide order dated 02.12.2011, allowed the writ petition and directed the respondent No.3 therein to take decision in accordance with law in the matter of approval of appointment of petitioner and to regularize his services in the post of Lecturer of History, by passing an appropriate order.

Pursuant to the order passed by this Court in the aforesaid writ petition, respondent No.3 vide communication dated 16.05.2012, addressed a letter to



the respondent No.2 recommending to regularize the services of the petitioner. On 18.02.2017, respondent No.4-Management addressed a communication to the respondent No.2 stating that the petitioner was appointed during the year 2004 against a sanctioned vacant post of Lecturer in History and since then, he has been working continuously and fulfills all the conditions laid down by the Hon'ble Apex Court in the case of ***Secretary, The State of Karnataka and others vs. Umadevi and others***¹ and thus requested to consider his long service and approve his appointment and regularize his services with all consequential benefits. On 14.07.2017, without considering any of the requests made by the petitioner, respondent No.2 has addressed the impugned communication rejecting the claim of regularization of services of the petitioner. The petitioner has contended that the impugned communication dated 14.07.2017 is

¹ AIR 2006 SC 1806



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illegal, arbitrary and erroneous and hence, on these grounds prays to allow the writ petition.

3. The respondent-State has filed statement of objection contending that the writ petition filed by the petitioner is not maintainable either in law or on facts and hence, the writ petition is liable to be dismissed. It is contended that respondent No.4 has been informed that services of the petitioner cannot be regularized and directed to fill the vacant post as per the procedure through direct recruitment. In this connection, it is submitted that the impugned communication can be challenged before the Government under the provisions of Karnataka Education Act, 1983. It is submitted that the petitioner without exhausting efficacious remedy, filed this writ petition.

It is contended that prior to introduction of UGC pay scale in the State, the recruitment of the posts in Aided Degree Colleges was regulated as per the directions given in the Government Order dated 03.10.1981 and with the introduction of UGC pay scales to teachers in the State, it became mandatory for the State to adopt the qualification prescribed by



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UGC for the post of Lecturer in its Regulations and as such, the Government brought about amendment to the said Government Order on 08.02.1994 by incorporating qualification for the post of Lecturer in Aided Decree College. It is contended that the petitioner did not possess the requisite qualification for appointment as a Lecturer in History as per the Government Order. It is also contended that the petitioner has not worked for more than 10 years and he did not fulfill the condition laid down by the Hon'ble Apex Court in the case of '**Umadevi**' (supra). Hence, the respondents have rightly issued the impugned endorsement and hence, prays to dismiss the writ petition.

4. Heard the arguments of learned counsel for the petitioner and learned Additional Government Advocate for respondent Nos.1 to 3.

5. Learned counsel for the petitioner submits that the petitioner was appointed as part time Lecturer in History subject in respondent No.4-Institution vide appointment order dated 29.06.2004. He submitted that the petitioner has approached this Court in W.P.No.18152/2011 and this Court



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vide order dated 02.12.2011 allowed the writ petition and directed the respondent No.3 therein i.e. Regional Director, Department of Collegiate Education, Maharani College Premises, Mysore to take decision in accordance with law in the matter of approval of appointment of petitioner and to regularize his services in the post of Lecturer of History, by passing an appropriate order. He submits that respondents have not complied with the direction issued by this Court in W.P.No.18152/2011 and he submits that the petitioner has fulfilled all the conditions laid down by the Hon'ble Apex Court in the case of '**Umadevi**' (supra).

To address his arguments, he placed reliance on the judgments of the Hon'ble Apex Court in the cases of **Jaggo vs. Union of India and Others², Dharam Singh and Others vs. State of U.P. and Another³, Shripal and Another vs. Nagar Nigam, Ghaziabad⁴, Sukhendu Bhattacharjee and Others vs. State of Assam and Others⁵**, and **Bhikhani Devi**

² 2024 SCC OnLine SC 3826

³ 2025 SCC OnLine SC 1735

⁴ 2025 SCC OnLine SC 221

⁵ 2026 SCC OnLine sc 909



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and Etc. vs. Union of India and Others⁶ and submits that the impugned endorsement issued by the respondents is arbitrary and erroneous and on these grounds, he prays to allow the writ petition.

6. Per contra, learned Additional Government Advocate submits that the post of the petitioner is not aided post and hence, the question of regularization of the services of the petitioner does not arise. The respondents have rightly issued impugned endorsement. She also submits that the petitioner has not completed 10 years of service. Hence, she prays to dismiss the petition.

7. Perused the records and considered the submissions of the learned counsel for the parties.

8. There is no dispute regarding appointment of the petitioner as a Lecturer in History in the respondent No.4-Management in 2004. Since 2004, the petitioner has been continued in the post of Lecturer in History subject. The petitioner submitted a representation for approval of his

⁶ 2026 SCC OnLine SC 1055



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appointment as Lecturer in History and also sought for regularization. The respondents did not consider the representation submitted by the petitioner. The petitioner has approached this Court in W.P.No.18152/2011. This Court vide order dated 02.12.2011, allowed the writ petition and directed the respondent No.3 therein to take decision in accordance with law in the matter of approval of appointment of petitioner and to regularize his services in the post of Lecturer of History by passing appropriate order and the said exercise shall be accomplished within a period of eight weeks.

9. Pursuant to the order passed by this Court, respondent No.3 addressed a letter dated 16.05.2012 to respondent No.2 recommending to regularize the services of the petitioner vide Annexure-F. The claim of the approval for appointment of the petitioner and for regularization of his services was not adhered to despite issue specific direction by this Court. Respondent No.4-Management addressed a letter dated 18.02.2017 to the respondent No.2 stating that the petitioner was appointed during the year 2004 against the sanctioned vacant post of Lecturer in History and he has fulfilled all the conditions laid



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down by the Hon'ble Apex Court in the case of '**Umadevi**' (supra) and requested to consider his long services and approve his appointment and to regularize of his services with all consequential benefits vide Annexure-G.

10. Without considering any request, respondent No.2 addressed a letter dated 14.07.2017 rejecting the claim for regularization of the services of the petitioner. The said endorsement issued by respondent No.2 is in violation of directions issued by this Court in W.P.No.18152/2011 and further, in view of the proposition of law laid down by the Hon'ble Apex Court in the case of '**Shripal**' supra has held as follows:

"3. The factual matrix leading up to the appeal before us is as follows:

***3.1.** The Appellant Workmen claim to have been engaged as Gardeners (Malis) in the Horticulture Department of the Respondent Employer, Ghaziabad Nagar Nigam, since the year 1998 (in some instances, since 1999). According to them, they continuously discharged horticultural and maintenance duties— such as planting trees, maintaining parks, and beautifying public spaces—under the direct supervision of the Respondent Employer. They further allege that no formal appointment letters were ever*



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issued to them, and that they were persistently denied minimum wages, weekly offs, national holidays, and other statutory benefits.

3.2. *In 2004, the Appellant Workmen, along with many other similarly situated employees, raised an industrial dispute (C.B. Case No. 6 of 2004) before the Conciliation Officer at Ghaziabad, seeking regularization of their services and the requisite statutory benefits. They contend that, upon learning of this demand, the Respondent Employer began delaying their salaries and subjected them to adverse working conditions. Eventually, around mid-July 2005, the services of numerous workmen were allegedly terminated orally, without any notice, written orders, or retrenchment compensation.*

3.3. *Since the above termination took place during the pendency of the conciliation proceedings, the Appellant Workmen argue it violated Section 6E of the U.P. Industrial Disputes Act, 1947. Consequently, the State Government referred the disputes concerning both (i) regularization and (ii) legality of the alleged termination, to the Labour Court, Ghaziabad for adjudication.*

3.4. *The Labour Court proceeded to decide the references vide two orders:*

(i) Order dated 03.06.2011 : In numerous adjudication cases (e.g., Adjudication Case Nos. 448, 451, 467 of 2006, etc.), the Labour Court passed awards holding the terminations illegal for want of compliance with Section 6N of the U.P. Industrial Disputes Act, 1947, and directed reinstatement with 30% back wages.



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(ii) Order dated 11.10.2011 : However, in about 41 other adjudication cases (e.g., Adjudication Case Nos. 269, 270, 272, etc.), the Labour Court arrived at a contrary conclusion, dismissing the claims on the finding that the concerned workmen had not been engaged directly by the Nagar Nigam but rather through a contractor, and hence had no enforceable right to reinstatement or regularization against the Respondent Employer.

***3.5.** Aggrieved by the adverse portion of the awards (i.e., those granting reinstatement), the Respondent Employer, Ghaziabad Nagar Nigam, filed several writ petitions before the High Court of Judicature at Allahabad, challenging the Labour Court's findings. On the other hand, the workmen whose claims were dismissed by the other set of awards also approached the High Court by filing their own writ petitions. All these writ petitions were heard together, culminating in the common judgment dated 01.03.2019, which partly modified the Labour Court's conclusions.*

3.6. Through the impugned judgment, the High Court held that while the Labour Court was correct in exercising jurisdiction under the U.P. Industrial Disputes Act (since municipalities could be treated as "industry"), there remained factual complexities as to whether the workmen were genuinely on the rolls of the Nagar Nigam or were provided by contractors. The High Court also noted that the State Government had, by notifications/orders, placed a ban on fresh recruitments in Municipal Corporations, thereby restricting direct



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appointments to any post. Ultimately, the High Court partially modified the relief granted, directing re-engagement of the workmen on daily wages, with pay equivalent to the minimum in the regular pay scale of Gardeners, while allowing future consideration of their regularization if permissible by law.

4. Both the Appellant Workmen and the Respondent Employer have now approached this Court by way of Special Leave Petitions. The workmen primarily seek full reinstatement with back wages and a direction to secure their regularization, whereas the Respondent Employer seeks to quash the modifications ordered by the High Court on the ground that the High Court exceeded its jurisdiction by granting partial relief akin to regular employees, contrary to constitutional provisions and the State's ban on recruitment.

5. Learned counsel for the Appellant Workmen made the following submissions:

I. Continuous Service & Comparable Duties : *The Appellant Workmen had continuously discharged horticultural and maintenance duties— like planting trees, upkeep of public parks, and general beautification—under the direct supervision and control of the Respondent Employer for periods often exceeding a decade. They insist such longstanding, continuous work parallels that of permanent Gardeners.*

II. Direct Engagement & Wage Disbursement : *They aver that their wages, though inadequate, were paid*



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directly by the Horticulture Department of the Respondent Employer, nullifying the Employer's claim of contractual hiring. Muster rolls and internal notes are cited to show direct employer-employee relations.

III. Illegal Termination : *Alleging violation of Sections 6E and 6N of the U.P. Industrial Disputes Act, 1947, the Appellant Workmen maintain their abrupt termination in July 2005 (during pendency of conciliation proceedings) was devoid of due process and statutory payments, rendering it patently illegal.*

IV. Entitlement to Reinstatement & Regularization : *Given their long service and the principle of "equal pay for equal work," the Appellant Workmen submit they deserve full reinstatement with back wages and a legitimate pathway to regularization, as opposed to the partial relief of mere daily-wage re-engagement prescribed by the High Court.*

6. *On the other, the learned counsel for the Respondent Employer, Ghaziabad Nagar Nigam made the following submissions:*

I. Compliance with Constitutional Requirements : *Emphasizing the constitutional scheme of public employment, it is urged that there was (and remains) a ban on fresh recruitment in Municipal Corporations, and no proper selection process was ever followed to appoint the Workmen on any sanctioned posts.*

II. No Direct Employer-Employee Relationship : *The Respondent Employer contends that all horticulture work was carried out through independent contractors*



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appointed via tender processes. It claims any partial wage documentation cited by the Workmen fails to establish direct engagement.

III. Inapplicability of Regularization : *Relying on Secretary, State of Karnataka v. Umadevi¹, it is asserted that no daily wager can claim permanent absorption without adherence to constitutional requirements and availability of duly sanctioned vacancies.*

IV. Inadequate Proof of 240 Days' Service : *The Respondent Employer points out that the Workmen did not convincingly demonstrate they completed 240 days of continuous work in any calendar year, thus undermining the assertion that their cessation from service was illegal.*

V. Challenge to Modified Relief : *Finally, it argues that the High Court's direction to pay minimum-scale wages and to consider the Workmen for future regularization oversteps legal boundaries, disregards the recruitment ban, and fosters an impermissible avenue of public employment. The Respondent Employer, therefore, seeks the quashing of the impugned judgment.*

7. *Having heard the arguments and submissions of the learned counsel for the parties and having perused the record, this Court is of the considered opinion that the nature of engagement of the Appellant Workmen, the admitted shortage of Gardeners, and the circumstances under which their services were brought to an end, merit closer scrutiny.*



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8. It is undisputed that, while the Appellant Workmen were pressing for regularization and proper wages through pending conciliation proceedings, the Respondent Employer proceeded to discontinue their services, without issuing prior notice or granting retrenchment compensation. At this juncture, it is to have a look at the requirements of Section 6E of the U.P. Industrial Disputes Act, 1947 which has been reproduced hereunder:—

"6E. [Conditions of service, etc. to remain unchanged in certain circumstances during the pendency of proceedings. [Inserted by U.P. Act No. 1 of 1957.]

(1) During the pendency of any conciliation proceeding before a Conciliation Officer or a Board or of any proceeding before a Labour Court or Tribunal in respect of an industrial dispute, no employer shall,

-

(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding, or

(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise any workman concerned in such dispute save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in



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accordance with the standing orders applicable to a workman concerned in such dispute, -

(a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding, or

(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2) no employer shall during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute, -

(a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceeding, or

(b) by discharging or punishing, whether by dismissal or otherwise, such protected workman, such with the express permission in writing of the authority before which the proceeding is pending. Explanation. - For the purposes of this sub-section, a 'protected



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workman' in relation to an establishment, means a workman who, being an officer of a registered trade union connected with the establishment, is recognized as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workmen to be recognized as protected workmen for the purposes of sub-section (3) shall not exceed one per cent of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the State Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which they may be chosen and recognized as protected workmen.

(5) Where an employer makes an application to a Board, Labour Court or Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, as expeditiously as possible, such order in relation thereto as it deems fit."

9. On a plain reading of this section, we can deduce that any unilateral alteration in service conditions, including termination, is impermissible during the pendency of such proceedings unless prior approval



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is obtained from the appropriate authority. The record in the present case does not indicate that the Respondent Employer ever sought or was granted the requisite approval. Prima facie, therefore, this conduct reflects a deliberate attempt to circumvent the lawful claims of the workmen, particularly when their dispute over regularization and wages remained sub judice.

10. The Respondent Employer consistently labelled the Appellant Workmen as casual employees (or workers engaged through an unnamed contractor), yet there is no material proof of adherence to Section 6N of the U.P. Industrial Disputes Act, 1947, which mandates a proper notice or wages in lieu thereof as well as retrenchment compensation. In this context, whether an individual is classified as regular or temporary is irrelevant as retrenchment obligations under the Act must be met in all cases attracting Section 6N. Any termination thus effected without statutory safeguards cannot be undertaken lightly.

11. xxx

12. xxx

13. xxx

14. The Respondent Employer places reliance on Umadevi (supra)² to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, Uma Devi itself distinguishes between



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appointments that are "illegal" and those that are "irregular," the latter being eligible for regularization if they meet certain conditions. More importantly, Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment. Given the record which shows no true contractor-based arrangement and a consistent need for permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices.

15. It is manifest that the Appellant Workmen continuously rendered their services over several years, sometimes spanning more than a decade. Even if certain muster rolls were not produced in full, the Employer's failure to furnish such records—despite directions to do so—allows an adverse inference under well-established labour jurisprudence. Indian labour law strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature. Morally and legally, workers who fulfil ongoing municipal requirements year after year cannot be dismissed summarily as dispensable, particularly in the absence of a genuine contractor agreement. At this juncture, it would be appropriate to recall the broader critique of indefinite "temporary" employment practices as done by a



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recent judgment of this court in Jaggo v. Union of India³ in the following paragraphs:

"xxxxxxxxxx"

16. xxx

17. xxx

18. *The impugned order of the High Court, to the extent they confine the Appellant Workmen to future daily-wage engagement without continuity or meaningful back wages, is hereby set aside with the following directions:*

I. The discontinuation of the Appellant Workmen's services, effected without compliance with Section 6E and Section 6N of the U.P. Industrial Disputes Act, 1947, is declared illegal. All orders or communications terminating their services are quashed. In consequence, the Appellant Workmen shall be treated as continuing in service from the date of their termination, for all purposes, including seniority and continuity in service.

II. The Respondent Employer shall reinstate the Appellant Workmen in their respective posts (or posts akin to the duties they previously performed) within four weeks from the date of this judgment. Their entire period of absence (from the date of termination until actual reinstatement) shall be counted for continuity of service and all consequential benefits, such as seniority and eligibility for promotions, if any.



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III. Considering the length of service, the Appellant Workmen shall be entitled to 50% of the back wages from the date of their discontinuation until their actual reinstatement. The Respondent Employer shall clear the aforesaid dues within three months from the date of their reinstatement.

IV. The Respondent Employer is directed to initiate a fair and transparent process for regularizing the Appellant Workmen within six months from the date of reinstatement, duly considering the fact that they have performed perennial municipal duties akin to permanent posts. In assessing regularization, the Employer shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Appellant Workmen or to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the Respondent Employer shall expedite all necessary administrative processes to ensure these longtime employees are not indefinitely retained on daily wages contrary to statutory and equitable norms.

19. In view of the above, the appeal(s) filed by the workmen are allowed, whereas the appeal(s) filed by the Nagar Nigam Ghaziabad are dismissed.

(Emphasis supplied)''



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And the Hon'ble Apex Court in the case of '**JAGGO**' supra has held as follows:

"7. They urged the High Court to recognize their long and continuous service, the nature of their work, and the lack of any backdoor or illegal entry. They highlighted that they had functioned without any break, performed tasks equivalent to regular employees, and had been assigned duties essential to the regular upkeep, cleanliness, and maintenance of the respondent's offices. The High Court, after examining the Tribunal's decision and the submissions advanced, concluded that the petitioners before it were part-time workers who had not been appointed against sanctioned posts, nor had they performed a sufficient duration of full-time service to satisfy the criteria for regularization. It relied on the principle laid down in Secretary, State of Karnataka v. Uma Devi³ holding that the petitioners could not claim a vested right to be absorbed or regularized without fulfilling the requisite conditions. The High Court further observed that the petitioners did not possess the minimum educational qualifications ordinarily required for regular appointments, and additionally noted that the employer had subsequently outsourced the relevant housekeeping and maintenance activities. Concluding that there was no legal basis to grant the reliefs sought, the High Court dismissed the writ petition. Aggrieved by this



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rejection, the appellants have approached this Court by way of these appeals.

8. *On behalf of the appellants, the following arguments have been advanced before us:*

*(i). **Continuous and Substantive Engagement:** The appellants emphasize their long, uninterrupted service spanning well over a decade—and in some instances, exceeding two decades. They argue that their duties were neither sporadic nor project-based but permanent and integral to the daily functioning of the respondent's offices.*

*(ii). **Nature of Duties:** Their responsibilities— such as cleaning, dusting, gardening, and other maintenance tasks—were not casual or peripheral. Instead, they were central to ensuring a clean, orderly, and functional work environment, effectively aligning with roles typically associated with regular posts.*

*(iii). **Absence of Performance Issues:** Throughout their tenure, the appellants were never issued any warning or adverse remarks. They highlight that their work was consistently satisfactory, and there was no indication from the respondents that their performance was not satisfactory or required improvement.*

*(iv). **Compliance with 'Uma Devi' Guidelines:** The appellants assert that their appointments were not "illegal" but at most "irregular." Drawing on the principles laid down in *Secretary, State of Karnataka v. Uma Devi*⁴, they submit that long-serving employees in irregular*



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appointments—who fulfil essential, sanctioned functions—are entitled to consideration for regularization.

*(v). **Discrimination in Regularization:** The appellants point out that individuals with fewer years of service or similar engagements have been regularized. They contend that denying them the same benefit, despite their longer service and crucial role, constitutes arbitrary and discriminatory treatment.*

*(vi). **Irrelevance of Educational Qualifications:** The appellants reject the respondents' reliance on formal educational requirements, noting that such criteria were never enforced earlier and that the nature of their work does not inherently demand formal schooling. They argue that retrospectively imposing such qualifications is unjustified given their proven capability over many years.*

*(vii). **Equity and Fairness:** Ultimately, the appellants submit that the High Court erred by focusing too rigidly on their initial terms of engagement and ignoring the substantive reality of their long, integral service. They maintain that fairness, equity, and established judicial principles call for their regularization rather than abrupt termination*

9. *On the other hand, the following primary arguments have been advanced before us on behalf of the Respondents:*

*(i). **Nature of Engagement:** The respondents maintain that the appellants were engaged purely on a part-time, contractual basis, limited to a few hours a day, and that*



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their work was never intended to be permanent or full-time.

*(ii). **Absence of Sanctioned Posts:** They assert that the appellants were not appointed against any sanctioned posts. According to the respondents, without sanctioned vacancies, there can be no question of regularization or absorption into the permanent workforce.*

*(iii). **Non-Compliance with 'Uma Devi' Criteria:** Relying heavily on Secretary, State of Karnataka v. Uma Devi (supra), the respondents argue that the appellants do not meet the conditions necessary for regularization. They emphasize that merely serving a long period on a part-time or ad-hoc basis does not create a right to be regularized.*

*(iv). **Educational Qualifications:** The respondents contend that even if the appellants were to be considered for regular appointments, they do not possess the minimum educational qualifications mandated for regular recruitment. This, in their view, disqualifies the appellants from being absorbed into regular service.*

*(v). **Outsourcing as a Legitimate Policy Decision:** The respondents point out that they have chosen to outsource the relevant housekeeping and maintenance work to a private agency. This, they argue, is a legitimate administrative policy decision aimed at improving efficiency and cannot be interfered with by the courts.*

*(vi). **No Fundamental Right to Regularization:** Finally, the respondents underscore that no employee, merely by virtue of long-standing temporary or part-time*



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engagement, acquires a vested right to be regularized. They maintain that the appellants' claims are devoid of any legal entitlement and that the High Court was correct in dismissing their petition.

10. Having given careful consideration to the submissions advanced and the material on record, we find that the appellants' long and uninterrupted service, for periods extending well beyond ten years, cannot be brushed aside merely by labelling their initial appointments as part-time or contractual. The essence of their employment must be considered in the light of their sustained contribution, the integral nature of their work, and the fact that no evidence suggests their entry was through any illegal or surreptitious route.

11. *The appellants, throughout their tenure, were engaged in performing essential duties that were indispensable to the day-to-day functioning of the offices of the Central Water Commission (CWC). Applicant Nos. 1, 2, and 3, as Safaiwalis, were responsible for maintaining hygiene, cleanliness, and a conducive working environment within the office premises. Their duties involved sweeping, dusting, and cleaning of floors, workstations, and common areas—a set of responsibilities that directly contributed to the basic operational functionality of the CWC. Applicant No. 5, in the role of a Khallasi (with additional functions akin to those of a Mali), was entrusted with critical maintenance tasks, including*



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gardening, upkeep of outdoor premises, and ensuring orderly surroundings.

12. Despite being labelled as "part-time workers," the appellants performed these essential tasks on a daily and continuous basis over extensive periods, ranging from over a decade to nearly two decades. Their engagement was not sporadic or temporary in nature; instead, it was recurrent, regular, and akin to the responsibilities typically associated with sanctioned posts. Moreover, the respondents did not engage any other personnel for these tasks during the appellants' tenure, underscoring the indispensable nature of their work.

13. The claim by the respondents that these were not regular posts lacks merit, as the nature of the work performed by the appellants was perennial and fundamental to the functioning of the offices. The recurring nature of these duties necessitates their classification as regular posts, irrespective of how their initial engagements were labelled. It is also noteworthy that subsequent outsourcing of these same tasks to private agencies after the appellants' termination demonstrates the inherent need for these services. This act of outsourcing, which effectively replaced one set of workers with another, further underscores that the work in question was neither temporary nor occasional.

14. XXX

15. XXX



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16. The appellants' consistent performance over their long tenures further solidifies their claim for regularization. At no point during their engagement did the respondents raise any issues regarding their competence or performance. On the contrary, their services were extended repeatedly over the years, and their remuneration, though minimal, was incrementally increased which was an implicit acknowledgment of their satisfactory performance. The respondents' belated plea of alleged unsatisfactory service appears to be an afterthought and lacks credibility.

17. As for the argument relating to educational qualifications, we find it untenable in the present context. The nature of duties the appellants performed—cleaning, sweeping, dusting, and gardening—does not inherently mandate formal educational prerequisites. It would be unjust to rely on educational criteria that were never central to their engagement or the performance of their duties for decades. Moreover, the respondents themselves have, by their conduct, shown that such criteria were not strictly enforced in other cases of regularization. The appellants' long-standing satisfactory performance itself attests to their capability to discharge these functions, making rigid insistence on formal educational requirements an unreasonable hurdle.

18. XXX

19. It is evident from the foregoing that the appellants' roles were not only essential but also indistinguishable



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from those of regular employees. Their sustained contributions over extended periods, coupled with absence of any adverse record, warrant equitable treatment and regularization of their services. Denial of this benefit, followed by their arbitrary termination, amounts to manifest injustice and must be rectified.

20. It is well established that the decision in Uma Devi (supra) does not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment sought to prevent backdoor entries and illegal appointments that circumvent constitutional requirements. However, where appointments were not illegal but possibly "irregular," and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a scenario demanding fair regularization. In a recent judgment of this Court in Vinod Kumar v. Union of India⁵, it was held that procedural formalities cannot be used to deny regularization of service to an employee whose appointment was termed "temporary" but has performed the same duties as performed by the



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regular employee over a considerable period in the capacity of the regular employee. The relevant paras of this judgment have been reproduced below:

"6. The application of the judgment in Uma Devi (supra) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over a considerable period through continuous service. Their promotion was based on a specific notification for vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in the case of Uma Devi (supra).

7. The judgment in the case Uma Devi (supra) also distinguished between "irregular" and "illegal" appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case..."

21. The High Court placed undue emphasis on the initial label of the appellants' engagements and the



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outsourcing decision taken after their dismissal. Courts must look beyond the surface labels and consider the realities of employment : continuous, long-term service, indispensable duties, and absence of any mala fide or illegalities in their appointments. In that light, refusing regularization simply because their original terms did not explicitly state so, or because an outsourcing policy was belatedly introduced, would be contrary to principles of fairness and equity.

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

23. The International Labour Organization (ILO), of which India is a founding member, has consistently advocated for employment stability and the fair treatment of



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workers. The ILO's *Multinational Enterprises Declaration*⁶ encourages companies to provide stable employment and to observe obligations concerning employment stability and social security. It emphasizes that enterprises should assume a leading role in promoting employment security, particularly in contexts where job discontinuation could exacerbate long-term unemployment.

24. The landmark judgment of the United State in the case of *Vizcaino v. Microsoft Corporation*⁷ serves as a pertinent example from the private sector, illustrating the consequences of misclassifying employees to circumvent providing benefits. In this case, Microsoft classified certain workers as independent contractors, thereby denying them employee benefits. The U.S. Court of Appeals for the Ninth Circuit determined that these workers were, in fact, common-law employees and were entitled to the same benefits as regular employees. The Court noted that large Corporations have increasingly adopted the practice of hiring temporary employees or independent contractors as a means of avoiding payment of employee benefits, thereby increasing their profits. This judgment underscores the principle that the nature of the work performed, rather than the label assigned to the worker, should determine employment status and the corresponding rights and benefits. It highlights the judiciary's role in rectifying such misclassifications and ensuring that workers receive fair treatment.



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

- **Misuse of "Temporary" Labels:** *Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labeled as "temporary" or "contractual," even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.*

- **Arbitrary Termination:** *Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.*

- **Lack of Career Progression:** *Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them*



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and their regular counterparts, despite their contributions being equally significant.

• Using Outsourcing as a Shield: Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.

• Denial of Basic Rights and Benefits: Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.

26. While the judgment in Uma Devi (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between "illegal" and "irregular" appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should



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be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in Uma Devi (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.

27. In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international



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standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country."

(Emphasis supplied)

11. Learned Government Advocate submits that the appointment of the petitioner is not against the sanctioned post. The said contention was not taken by the State in the earlier writ petition filed by the petitioner. The respondent-State is estopped from taking such a contention, as it is hit by Explanation-IV to Section 11 of the Code of Civil Procedure, i.e., the doctrine of constructive res judicata.

12. Considering the mandate laid down by the Hon'ble Apex Court in the cases referred to supra, the impugned endorsement issued by respondent No.2 is arbitrary and erroneous. Hence, the same is liable to be quashed in view of the above discussions.

13. In view of the above, I proceed to pass the following order:

ORDER

- i. The writ petition is allowed.



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- ii. The impugned letter dated 14.07.2017 issued by respondent No.2 vide Annexure-H is hereby quashed.
- iii. The respondents are directed to consider the case of the petitioner for regularisation of his service in the post of Lecturer of History in the light of the judgments of the Hon'ble Apex Court in the cases of '**Jaggo**', '**Dharam Singh**', '**Shripal**', '**Sukhendu Bhattacharjee**' and '**Bhikhani Devi**' (supra) and pass appropriate orders in accordance with law within one month from the date of receipt of a certified copy of this order;
- iv. In view of disposal of the main writ petition, I.A.No.1/2026 does not survive for consideration. Hence, the same shall stand disposed of.

Sd/-
(ASHOK S.KINAGI)
JUDGE