



2026:AHC:44053-01H

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL DEFECTIVE No. - 359 of 2026

Krishna Kumar Mishra

.....Appellant(s)

Versus

The State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Appellant(s)	: Ram Pal Singh, Shyam Sundar Pal, Vinod Kumar
Counsel for Respondent(s)	: C.S.C.

Court No. - 3

**HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE SWARUPAMA CHATURVEDI, J.**

Re: Civil Misc. Delay Condonation Application No. 1 of 2026

1. Heard Sri Vinod Kumar, learned counsel for the original petitioner/appellant and Sri Rajiv Gupta, learned Additional Chief Standing Counsel representing the State respondents.
2. Present appeal has been filed with a delay of 14 days.
3. Cause shown is sufficient. Delay in filing the present appeal is condoned. Delay condonation application is **allowed**.

Order on Appeal

4. The present intra-court appeal has arisen against the common judgment and order dated 26.02.2026 passed by the learned single judge in **Krishna Kumar Mishra Vs. State of U.P. and Others** along with connected writ petition, **2026:AHC:44053**.
5. By that order, the learned single judge has dismissed the two writ petitions filed by the petitioner. Thus, his claim for regularisation in service has been rejected.
6. Submission is, the claim of the petitioner had arisen under the Uttar Pradesh Regularisation of *Ad-hoc* Appointments (on posts outside the

purview of the Public Service Commission) (Third Amendment) Rules, 2001 (hereinafter referred to as 'the Rules'). The said Rules came into force on 20.12.2001. By way of eligibility conditions, the Rules read as below:-

"(1) Any person who-

(i) was directly appointed on ad-hoc basis on or before June 30, 1998 and is continuing in service as such on the date of commencement of the Uttar Pradesh Regularisation of Ad-hoc Appointments (on posts outside the purview of the Public Service Commission) (Third Amendment) Rules, 2001,

(ii) possessed requisite qualifications prescribed for regular appointment as the time of such ad-hoc appointment; and

(iii) has completed or, as the case may be, after he has completed three years service shall be considered for regular appointment in permanent 10. temporary vacancy, as may be available, on the basis of his record and' suitability before any regular appointment is made in such vacancy in accordance with the relevant rules or orders."

7. Thus, for a valid claim to arise, the claimant must have been appointed on *ad-hoc* basis on or before 30.06.1998 and further he must have continued in service, as such, on 20.12.2001. The other eligibility conditions *qua* qualification and work experience, are not in dispute, in the present facts.

8. Here, undeniably, the original petitioner/appellant was appointed as Collection Amin on *ad-hoc* basis, against substantive vacancy that had arisen upon retirement of one Aditya Prasad Mishra, *vide* order dated 18.08.1990. Later, by order dated 11.02.1993 passed by the Additional District Magistrate (Finance and Revenue), the petitioner's services were dispensed on the reasoning that there existed a ban on fresh engagement. The petitioner being aggrieved, approached this Court by means of Writ Petition No. 22616 of 1993. Therein, *vide* order dated 25.06.1993, the operation and effect of the order dated 11.02.1993 passed by the Additional District Magistrate (Finance and Revenue), was stayed until

further orders. The writ petition itself was disposed of by order dated 17.08.2000, requiring the Collector to decide the petitioner's representation - with respect to his grievance that his service has been wrongly dispensed. It is further an admitted fact between the parties that since disposal of that writ petition on 17.08.2000, the original petitioner/appellant continued to work as Collection Amin. Besides the pleadings made in the writ petition (para no. 19 of the writ petition giving rise to the present intra-Court appeal), in the own document of the State Authorities dated 16.12.2006, it is recorded that the petitioner had worked during Fasli 1409 and 1410 (Kharif and Rabi). It would correspond to year 2001-02.

9. In that circumstance, the petitioner's representation filed in compliance to the order dated 17.08.2000 (passed in Writ Petition No. 22616 of 1993) was rejected vide order dated 06.12.2006. Perusal of that order reveals that no dispute exists with respect to the working of the petitioner during the period 17.08.2000 to 06.12.2006. His claim for regularisation came to be rejected for the reason of less recovery made by the petitioner.

10. The said order dated 06.12.2006 was challenged by the petitioner by means of the Writ Petition No. 71143 of 2006 which has given rise to the present intra-Court appeal. The petitioner also filed Writ Petition No. 15797 of 2007, wherein interim order was granted on 29.03.2007. Copy of the said order has been produced during course of the hearing. Both writ petitions have been dismissed with following observations made by the learned single judge:-

"8. In view of the aforesaid facts and circumstances, this Court do not find any good reason to entertain the claim of the petitioner with regard to regularization after his superannuation on 31.12.2024. Since there is no ground for consideration of regularization, therefore the petitioner is not entitled for any other consequential benefits, specifically in view of the Uttar Pradesh Entitlement to Pension and Validation Act, 2025 as notified on 02.01.2026. However, it is made clear that if any amount with regard to the provident fund or insurance etc. has been deducted from the salary of the petitioner, on attaining the age of superannuation, he is entitled for payment thereof, the said amount would be paid to the

petitioner in accordance with law."

11. Having heard the learned counsel for the parties and having perused the record, first, claim for regularisation may arise and be governed strictly in terms of the statutory rules. Those have been quoted above. Relevant to the present, in absence of any other dispute as to the eligibility of the petitioner to seek regularisation, it also cannot be disputed that the petitioner was appointed/engaged as an *ad-hoc* Collection Amin before 30.06.1998, *vide* order dated 18.08.1990. In view of the further discussion made above, it also cannot be disputed that he continued to work up to the date 20.12.2001, when the Rules were enforced.

12. Seen in that light, the petitioner's claim to regularisation was wholly maintainable. The fact that he may have worked under interim order of this Court he did not earn any disability or ineligibility, inasmuch as the said interim order only protected the tenure of his working under the appointment order dated 18.08.1990. As noted above, that order clearly exists. Recognising the same, the writ Court had not only allowed for his continued working (in Writ Petition No. 22616 of 1993) but had disposed of the writ petition *vide* order dated 17.08.2000, allowing for the petitioner's representation to be decided in terms of **Jawahar Lal and others vs. The District Magistrate Kanpur Dehat and Others, [1995 (2) E.S.C. 38 (All)]**.

13. Thereafter, the State Government introduced the Rules w.e.f. 20.12.2001. To the extent, the petitioner's representation was not dealt with or decided before enforcement of those statutory rules, the petitioner remained well within his rights to claim regularisation under the Rules, after their enforcement w.e.f. 20.12.2001.

14. To the extent, the Rules do not provide for any other criteria for the purposes of regularisation except as has been discussed above, it did not become open to the authorities - to reject the claim for regularisation, on other grounds.

15. Statutory rules, by their very nature, carry legislative force. Thus, once that legislative action had intervened, the rights of the petitioner/his claim came to be governed on that strength. Thus, irrespective of the fate

of the representation made by the petitioner in compliance to the order dated 17.08.2000 passed by the writ Court, the petitioner became entitled to raise an independent claim for regularisation in terms of the Rules.

16. Further, to the extent, the petitioner's representation and/or claim for regularisation may have arisen subsequent to the enforcement of the Rules, may also not be cited as an ineligibility earned by the petitioner, inasmuch as it is admitted to the State respondents that despite disposal of the Writ Petition No. 22616 of 1993, *vide* order dated 17.08.2000 and in absence of any interim protection granted thereafter, the respondent authority allowed the petitioner to continue to work as Collection Amin, till the enforcement of the Rules, on 20.12.2001. In fact, he continued to work in that capacity till 23.02.2007 when his service was finally terminated.

17. Thus, it is clear to us - even if the petitioner may not have been otherwise entitled to regularisation on the post of Collection Amin, before 20.12.2001, in the framework of the laws, as they existed before enforcement of the Rules, the relevance of that issue did not survive after enforcement of the Rules on 20.12.2001. The Rules created a right (to regularisation), in favour of the petitioner, afresh and independent of similar right that he may have claimed, on any other (pre-existing) law.

18. Once the Rules came to be enforced, the petitioner's claim for regularisation had to be considered on the strength of those statutory Rules. To the extent, the petitioner is seen to have fulfilled the conditions for regularisation - inasmuch as, his appointment on *ad-hoc* basis was within the cut-off date i.e. 30.06.1998, and he continued to be engaged up to and well beyond the end date i.e. 20.12.2001, he could not have been declined regularisation in service - on the strength of those statutory Rules.

19. In comparable facts in **Prem Sagar Vs. State of U.P. and Others, 2026 SCC OnLine All 1690**, one of us (Swarupama Chaturvedi,J.), held as below:-

"27. Rule 8 of the above mentioned rule, makes it clear that the service of a person appointed on ad-hoc basis, who is not found suitable or whose

case is not covered by sub-rule (1) of Rule 4 of Regularisation Rules, 1979, shall be determined forthwith and on such termination, he shall be entitled to receive one month pay. The provision shows that the State has made provisions keeping in mind the welfare and protection of employees and to terminate service of only those who are not covered under Rule 4(1) of the Regularisation Rules, 1979 and therefore, writ court shall have interfered with the termination order, which was impugned in Writ A 19783 of 2024.

28. Rules 9 and 10 of the Regularisation Rules, 1979 make provisions to include all persons who were directly appointed on an ad-hoc basis on or before 01.05.1983 and 01.10.1986, and who have continued in service in that capacity. These provisions reflect the intent of the State, as a model employer, to safeguard the interests of employees who have rendered continuous service but have not yet been regularised, particularly to ensure that they do not lose their legitimate benefits towards the *fag end* of their employment. Thus, the object of these Rules is to cover the maximum number of ad-hoc appointees in continuous service and to facilitate their regularisation, except in cases where the conditions specified under Rule 4(1) of the Regularisation Rules, 1979 are not satisfied. Rule 4(1) prescribes only three conditions for eligibility, first, that the initial appointment must have been made on or before 31.12.2001, second, that the employee must have qualifications, and third, that the employee shall have continuous service for a minimum period of three years. Therefore, the denial of regularisation to the appellant, despite clear and sufficient proof that he fulfils all three conditions prescribed under Rule 4(1) of the Regularisation Rules, 1979, cannot be justified.

.....

31. The State, being a model employer, cannot be permitted to rely on strict technicalities of initial appointment to deny regularisation to an employee who has rendered long and uninterrupted service spanning over three decades, particularly when the Rules do not provide that continuous service rendered in pursuant to a Court's order, disqualifies an employee from claiming the benefits of regularisation.

.....

33. *It is an established principle of law that the State being a model employer is obligated to discharge its functions as per fair administrative rules. A model employer is expected to act with fairness and also bears the responsibilities to treat his employees in a manner, which is reasonable and therefore, the respondents cannot be permitted to take services and exploit the young age of the employees for more than three decades while ignoring his legitimate expectation and discontinue his services without any reasonable and speaking order near his age of superannuation. The Constitutional mandate cast upon the State as a model employer is at much higher level than that of any other employer and therefore, the impugned order before learned single judge deserved more attention in writ jurisdiction than the question of initial appointment in the year 1992.*

.....

38. *The Supreme Court has expressed consistently maintained its disapproval of the State's actions in avoiding regularisation after availing services from employees. This position is further affirmed in Shripal and Another (supra), where it was held that:*

"14. The Respondent Employer places reliance on Umadevi (supra) 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 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..."

39. Reinforcing the above position, the Supreme Court in *Dharam Singh and Others* (supra), it is held as follows:

"11. Furthermore, it must be clarified that the reliance placed by the High Court on *Umadevi* (Supra) to non-suit the appellants is misplaced. Unlike *Umadevi* (Supra), the challenge before us is not an invitation to bypass the constitutional scheme of public employment. It is a challenge to the State's arbitrary refusals to sanction posts despite the employer's own acknowledgement of need and decades of continuous reliance on the very workforce. On the other hand, *Umadevi* (Supra) draws a distinction between illegal appointments and irregular engagements and does not endorse the perpetuation of precarious employment where the work itself is permanent and the State has failed, for years, to put its house in order. Recent decisions of this Court in *Jaggo v. Union of India*⁴ and in *Shripal v. Nagar Nigam, Ghaziabad*⁵ have emphatically cautioned that *Umadevi* (Supra) cannot be deployed as a shield to justify exploitation through long-term "ad hocism", the use of outsourcing as a proxy, or the denial of basic parity where identical duties are exacted over extended periods..."

40. Even for the contractual conditions where the employee might have

agreed in the contract, the Supreme Court has not supported the continuous engagement without regularisation and granted benefits, whereas in the facts of the case the appellant was providing continuous services for decades and was getting due salary along with all benefits like regular employees but he has not been regularized instead arbitrarily removed, and therefore in the facts of the case, the interference is warranted to enforce the rights of the appellant.

41. In view of the foregoing analysis of the facts, the submissions of the parties, and the relevant legal provisions, we are of the considered view that the findings recorded by the learned single judge is incorrect, hence, the impugned order is accordingly set aside. The appellant, having rendered long, continuous, and uninterrupted service for over three decades, with full salary, allowances, increments and other benefits, has a legitimate expectation and clearly satisfies the conditions prescribed under Rule 4(1) of the Regularisation Rules, 1979.

42. Accordingly, the special appeal is allowed. The respondents are directed to regularise the services of the appellant forthwith under the Regularisation Rules, 1979, with all consequential benefits in accordance with law. The respondents shall implement this direction within a period of ninety days from the date of receipt of a certified copy of this order. No further orders as to costs."

(emphasis supplied)

20. In view of the above, we find that an error on principle has crept in the order of the writ Court. It may have remained to be considered by learned single judge that in view of the continued engagement of the petitioner against *ad-hoc* appointment, he had earned a right to be regularised in service, on the strength of the Rules, on 20.12.2001. In view of the same, he would be entitled to all consequential relief.

21. In view of the above, the appeal is **allowed**. The order of learned single judge is **set aside**. The writ petition is also **allowed**. Let order be passed by the Appropriate Authority, providing for regularisation of the petitioner in service as Collection Amin w.e.f. 20.12.2001 with all consequential benefits.

22. Monetary benefits may be computed and paid out to the petitioner within a period of three months. His retiral dues may accordingly be computed and paid out within a further period of three months.

23. No order as to costs.

(Swarupama Chaturvedi,J.) (Saumitra Dayal Singh,J.)

May 6, 2026
#Vikram/-