IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.12.2017

DELIVERED ON : 29.01.2018

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.35119 of 2007

Petroleum Employees' Union,
Rep. by its Deputy General Secretary,
Mr.V.Gopinathan,
C/o. Oil and Natural Gas Corporation Ltd.,
SRBC, CMDA Buildings,
No.8, Gandhi Irwin Road,
Egmore, Chennai-8. .. Petitioner

Vs.

1.The Management of Oil & Natural
Gas Corporation Ltd.,
SRBC, CMDA Buildings,
Egmore, Chennai-8.

2.The Presiding Officer,
Central Government Industrial
Tribunal-cum-Labour Court,
Chennai-6. .. Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the Impugned Award dated 17.05.2007 made in I.D.No.27 of 2005 passed by the Central Government Industrial Tribunal-cum-Labour Court, Chennai, the 2nd respondent herein and quash the same

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and direct the first respondent to make the petitioner/employees as permanent from the date they have completed 480 days of continuous service in 24 calendar months.

For Petitioner : Mr.N.G.R.Prasad,
for Mr.K.Srinivasamurthy

For Respondents : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.

O R D E R

M.SATHYANARAYANAN, J.

The Petroleum Employees' Union of Oil and Natural Gas Corporation Limited [in short "ONGC"] is the writ petitioner. The Ministry of Labour, Central Government, vide order No.30011/83/2004-IR(M) dated 25.01.2005 has referred the following dispute to the Central Government Industrial Tribunal-cum-Labour Court, Chennai [in short "Tribunal-cum-Labour Court] for adjudication:

> *"Whether the action of the management of ONGC in not regularizing the services of S/Shri K.Selvam and 16 others is legal and justified? If not, to what relief the workmen concerned are entitled?*

The Tribunal-cum-Labour Court, vide impugned award dated 17.05.2007, came to the conclusion that action of the respondent/Management of ONGC in not regularizing the services of 17 workmen is not illegal and that the workmen concerned in the said dispute are not entitled to any relief. The Tribunal-cum-Labour Court also gave a direction to the

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respondent/Management to absorb the concerned workmen in the dispute, who had admittedly completed 480 days in a continuous period of 24 calendar months and be regularized as and when such vacancies become available. The petitioner/Employees' Union, aggrieved by the answering of the reference by the Tribunal-cum-Labour Court, has filed this writ petition.

2. Facts leading to the filing of this writ petition, briefly narrated, necessary for the disposal of this writ petition, are as follows:

2.1. Mr.V.Gopinathan, Deputy General Secretary, Petroleum Employees' Union of ONGC Ltd., SRBC, Chennai-8, submitted a claim statement in I.D.No.27 of 2005, stating among other things that out of 17 workmen, who raised the Industrial Dispute for adjudication, 14 of them are Messengers and 3 of them are Sanitary Cleaners by designation and they are working in the respondent/Management from the year 1988 in the same category. It is further stated in the claim petition that in the earlier years, i.e., 1985 – 1986, the said workmen were engaged through contractors and from the year 1988 onwards, they were employed directly by the respondent/Management and they have been given designation called "Term-Based Employees" and they were paid directly by the respondent on monthly basis, calculated @ Rs.190/- per day.

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2.2. The petitioner Union took a stand that neither in the Industrial Employment Standing Orders Act nor in the Service Rules of the respondent/Management, there is a designation called "Term-Based Employee" and in order to defeat the provisions of Labour Laws, which extend various benefits to the workmen, the respondents coined a new designation called "Term-Based Employees". The petitioner Union would further aver that in the Industrial Employment Standing Orders Act, only the following designations are named:

a. Permanent Employee

b. Temporary Employee

c. Probationers

d. Casuals

e. Contract Employee.

Therefore, the said designation coined/created by the respondent/Management viz., "Term-Based Employees" is legally also unsustainable. The petitioner Union also took a stand that in order to invoke Section 2-OO(bb) of the Industrial Disputes Act, 1947, the respondent had innovated the designation called "Term-Based Employees".

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2.3. It is also contended in the claim petition that there are several employees employed on regular basis for the same category of work as permanent employees and are paid regular Scale of Pay of Rs.10,887/- per month and that apart, they are also paid with various allowances such as Dearness Allowance, House Rent Allowance, Conveyance Allowance, Drilling Allowance and Production Bonus etc. and though the above said workmen are performing the same work as that of regular employees, the benefit of "Equal Pay for Equal Work" has been unjustly denied. It is also the categorical stand of the petitioner Union that the said 17 workmen are fully qualified for the post and possess the same educational qualification as possessed by regular employees.

2.4. 37 workmen, who were not regularized, filed W.P.No.777 of 1997 and when it was taken up for disposal, 27 workmen were regularized, 14 were left out and one expired. This Court, while disposing of the said writ petition, vide order dated 14.10.2000, granted liberty to the workmen/petitioners therin to raise appropriate industrial dispute before the appropriate manner provided under the provisions of the Industrial Disputes Act and therefore, the present dispute is raised.

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2.5. The petitioner Union also took a stand that though the provisions of the Tamil Nadu Shops and Establishment Act, 1947 is not applicable to the Central Government undertakings but for the purpose of definition, the said Act has been taken as a guideline and that the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 [in short "Permanent Status Act"] is applicable to the respondent organization and hence, prayed for an award regularizing their services from the date, these employees have completed 480 days of service in 24 calendar months and extend to them the regular scale of pay, other allowances and fringe benefits as applicable to the permanent employees.

2.6. The respondent/Management of ONGC filed counter statement refuting the averments made in the claim petition and stated that the Oil and Natural Gas Commission Act, 1959 [Central Act No.43 of 1959] provides for establishment of a Commission for the development of petroleum resources, production and sale of petroleum and petroleum products produced by it and for matters connected therewith and accordingly, ONGC came to be established. The said Commission set up Regional Offices, one of which is the Southern Regional Office, came to be located in Chennai at the relevant point of time and it was controlling the activities in Andhra Pradesh, Tamil Nadu, Poncidherry and Andaman and it was engaged in

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exploration of oil resources and natural gas in Cauvery Basin in Tamil Nadu, Krishna and Godavari Basin in Andhra Pradesh.

2.7. The respondent/ONGC, in respect of works which are not directly related to exploration and production, was outsourcing it's manpower requirement for certain jobs such as Watch and Ward, House Keeping and Courier Service and it also had 7 offices in Chennai. It is further stated by the respondent that the Southern Regional Office was placing it's indent for manpower for Watch and Ward, House Keeping and Courier Service on some of the external agencies who used to deploy their men for attending to these jobs and there were three such agencies viz., Thai Security Services (P) Ltd., M/s. Dialtone and M/s.Industrial Maintenance Services (P) Ltd.

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2.8. During the year 1986, National Industrial Commercial Employees Union filed W.P.No.7651 of 1986, praying for regularization/absorption of contract labour and during the pendency of the same, based on an understanding reached with contract labour, it was agreed to have a single agency which could be entrusted with the task of supplying manpower for carrying out these jobs, for which contracts were awarded. A settlement also came into being on 16.12.1986 between the respondent and

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contract workmen, by which, it was agreed to form a Cooperative Society in order to bring out improvement in the working conditions and welfare of the contract workers working in the Southern Regional Office at Chennai. In the light of the said development, W.P.No.7651 of 1986 was dismissed as withdrawn, vide order dated 16.03.1987 and accordingly, a Society in the name of Priyadharshini Indira Gandhi Cooperative Labour Contract and Society Limited came to be formed and the said Society was mainly supplying contract labour for Watch and Ward, House Keeping and Sanitary Workers.

2.9. The Respondent/ONGC would further state that by notification dated 09.11.1976 issued under Section 10 of the Contract Labour (Regulation and Abolition) Act, the Government of India prohibited employment of contract labour for Sweeping, Cleaning, Dusting and Watching of building owned and occupied by the establishment, in respect of which appropriate authority is the Central Government and also took a policy decision that Central Industrial Security Force (CISF) alone be engaged for protection of various vital installations and therefore, the above said Society was asked not to deploy security personnel for ONGC area in the harbour.

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2.10. The Tamil Nadu National Industrial Commercial Employees Union filed W.P.No.9688 of 1987, seeking to restrain the respondent from utilizing the services of CISF and for continuing to utilize the service of Priyadharshini Indira Gandhi Cooperative Labour Contract and Society Limited and an interim order of Status Quo was directed to be maintained, vide order dated 06.10.1987. The said Writ Petition was disposed of 05.01.1988, holding that the settlement dated 16.12.1986 permitting the formation of Cooperative Society for supply of manpower cannot be sustained, in the light of the notification dated 09.12.1976 prohibiting employment of contract labour and the request made by the said Union for regularizing the employees of the said Society was also negatived.

2.11. Accordingly, the respondent/ONGC had terminated the contract entered into with the said Society with effect from 13.01.1988 and in the light of the same, policy decision was taken to employ workmen of the Society on "Fixed Term Basis" and accordingly, applications were collected from willing employees of the Society and on 21.01.1988, they were all issued with letters of Term Based Employment, confirming temporary employment from 13.01.1988 to 29.02.1988. Thereafter, the said mode of appointment was extended with the approval of the Competent Authority on adhoc basis pending decision about disbanding of the work force and it was

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also suggested whether a separate Society similar to the Society can be formed for undertaking the Courier Service. In this regard, W.P.No.11683 of 1988 was filed, complaining that the Term Based appointees/Messengers were compelled to form Society, but it was dismissed on 21.04.1989.

2.12. It was further averred by the respondent/ONGC that in the year 1991, it moved its own premises and many of the offices located in different places in Chennai were all closed and activities of those offices were shifted to it's own premises and even the need for service of Sanitary Cleaners were also declined. The respondent/ONGC also in-turn wanted to carry out comprehensive study about it's manpower requirements and based on such study, posts were created and thus "Term Based Employees" were to be considered for such additional posts.

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2.13. It was also stated by the respondents that between 1991 and 1997, major changes took place and instead of being a statutory body, a Company was formed in the name of Oil and Natural Corporation Limited (ONGC) and it came to be registered on 23.06.1993 under the provisions of the Indian Companies Act, 1956 and workers, who were appointed on Term Basis, were also being periodically rationalised and their number also got considerably reduced.

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2.14. 37 Workmen, who worked as Messengers, filed W.P.No.777 of 1997, to regularize their service from the date of their initial appointment and it came to be disposed of, granting liberty to them to work out their remedy under the provisions of the Industrial Disputes Act. The Competent Authority, on 18.12.1998, has accorded sanction for creation and appointment of 11 posts of Junior Attendants and 5 posts of Junior Sanitary Cleaners and out of 36 Term Based appointees, who were working as Messengers, 11 who met the prescribed criteria were appointed as Junior Attendants and similarly, 5 Term Based appointees were made in Mach 1999. Again, in the year 2000, the Competent Authority gave sanction for creation and appointment of 11 posts of Junior Attendants and 3 posts of Junior Sanitary Cleaners and 11 term based appointees, who were working as Messengers and who met the prescribed criteria, were appointed as Junior Attendants and 3 Sanitary Cleaners on Term Basis were appointed as Junior Sanitary Cleaners.

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2.15. Out of 37 Messengers, who were parties to W.P.No.777 of 1997, one Thiru.Balakrishnan expired and the remaining 14 Term Based appointees were being retained in view of pendency of the writ petition. The respondent, by placing reliance upon the rule position, submitted that

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any appointment can be made only against sanctioned post and no person can make a claim for appointment without a vacancy existing in the sanctioned post and since 2000, no new post has been created in the cadre of Junior Attendant and Junior Sanitary Cleaner and no vacancy arisen in the sanctioned posts and as such, the remaining 13 employees could not be considered for regularization in the absence of sanctioned posts.

2.16. The respondent also took a stand that the cause of 17 workmen was not espoused by a substantial section of the workmen of the Southern Regional Office of the respondent and there is no valid industrial dispute regarding the demand for regularization of 17 "Term Based Employees" and therefore, the order of reference itself is not valid in law and therefore, the respondent/Management prayed for rejection of the claim of the petitioner Union.

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2.17. During the course of enquiry of the said Industrial Dispute, three witnesses were examined on behalf of the petitioner Union and sole witness was examined on behalf of the respondent/Management. The petitioner Union marked W1 to W8 and the respondent/Management marked M1 to M25.

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2.18. The Tribunal-cum-Labour Court, after taking into consideration the materials placed, gave a finding that the workmen have failed to establish that they have been appointed in the sanctioned posts and in the absence of the same, order for regularization cannot be passed. However, the Tribunal had also issued a direction to the respondent/Management to absorb the 17 workmen concerned in the dispute, who had admittedly completed 48 days in a continuous period of 24 calendar months, be regularized as and when such vacancies become available and thus, answered the reference accordingly, vide award dated 17.05.2007.

2.19. The petitioner Union, challenging the legality of the said Award, had filed the present Writ Petition.

3. The Writ Petition was admitted on 16.11.2007. Pending disposal of the same, M.P.Nos.1 and 2 of 2008, praying for interim orders were also filed and this Court, vide order dated 13.09.2008, granted an order of ad-interim direction restraining the first respondent from terminating the services of the petitioner till 30.06.2009 and accordingly, their services are retained. When the Writ Petition was listed for hearing on 21.08.2013, it was represented by the learned counsel for the respondents that the question as to whether the Tamil Nadu Industrial Establishment (Conferment of

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Permanent Status to Workmen) Act, 1981 is applicable to a company owned by the Central Government has already been referred to a Division Bench and the matter is pending before the Division Bench and therefore, the learned Judge, taking note of the said submission, has directed the Registry to tag this writ petition along with W.P.No.5156 of 2005 and list the same before the concerned Division Bench, after getting necessary orders. Therefore, this Writ Petition was tagged along with W.P.No.5156 of 2005, which was filed by the Management of Madras Aluminium Company Limited [MALCO]. Prior to that, vide order dated 25.06.2013 made in W.P.No.5156 of 2005, the learned Judge formulated four questions and referred the same to the Division Bench for answering the Reference.

4. Both the writ petitions were listed before the present Division Bench on 21.08.2017 and the four points of reference were re-casted as follows:

> ***Whether the first respondent before us i.e., Deputy Chief Inspector of Factories, Salem, has adjudicatory powers?***

The learned counsel for the respondent/ONGC had also made a plea that the present writ petition is to be taken up separately and therefore, vide order dated 21.08.2017, apart from recasting the reference, directed the Registry to list both the writ petitions separately.

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5. Counter Affidavit and Additional Counter affidavit of the respondent/ONGC has also been filed in the main writ petition and it is relevant to extract paras 9 to 11 of the Additional Counter Affidavit:

> "9. I state that the 17 persons involved in the dispute applied for the recruitment process held in the year 2000. I state that out of 17 persons, three of them applied for the post of Junior Sanitary Cleaner. They were called for interview. However, they did not quality as they scored much lesser than those who had participated along with them, in the recruitment process. [R.Babu (SC) – 85.4 marks, G.Raghu (SC)-84.6 marks and A.Abraham (OBC)-79.4 marks].
>
> 10. The remaining 14 persons had applied for the post of Junior Attendant. Of the 14 persons, 13 persons did not possess the requisite education qualification of Xth Standard Pass. Hence they were not considered. Mr.S.T.Yehappan was considered as a General Category candidate. He scored only 70 marks. Whereas the successful person had scored 89.4 marks. Hence he was not selected.
>
> 11. I state that the 17 person were called for interview and were subjected to the recruitment process but they did not qualify as they did not possess the requisite educational qualification or as they scored marks lesser than the successful candidate."

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6. Mr.N.G.R.Prasad, learned counsel appearing for the petitioner Union, would contend that 17 Workmen were employed through Contract Labour and subsequently, the Society came to be formed in order to get over the notification issued by the Government of India abolishing the employment of Contract Labour and they were employed on Term Basis and

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from 13.01.1988 onwards, the respondent started paying them wages directly till 29.02.1988 and their services are continued to be engaged as on date and in that process, each workmen have put in nearly 30 years of service. It is further submitted by the learned counsel appearing for the petitioner Union that W.P.No.777 of 1997 was filed by 37 workmen and pendency of the said writ petition, it was represented by the respondent that services of 22 workmen were regularized, out of which 11 were regularized as Junior Attendants and 3 as Sanitary Cleaners. The said writ petition was disposed of on 14.10.2003, granting liberty to the petitioners to workout their remedy by raising an Industrial Dispute and accordingly, the present Industrial Dispute came to be raised. The learned counsel for the petitioner, by placing reliance upon the decision of the Hon'ble Supreme Court in ***ONGC Ltd. v. Petroleum Coal Labour Union and Others [(2015) 6 SCC 494],*** would submit that in the light of the said judgment, the concerned workmen are entitled for regularization as per ONGC Act as well as certified Standing Orders Act and the procedure adopted by the respondent/Management is to recruit them initially through Labour Contract and consequently engaging their services as “Term Based Employees” is *per se* an Unfair Labour Practice. The learned counsel appearing for the petitioner Union further submitted that admittedly, each of the petitioners had completed 240 days of employment and they were engaged right from

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the year 1988 and under the guise of non-availability of sanctioned posts, their right to get permanency is unjustly denied.

7. The learned counsel appearing for the petitioner by placing upon the decision in ***Nihal Singh and Others v. State of Punjab and Others [2013 (14) SCC 64 = 2013 (5) LLN 109 (SC)]*** and would submit that in the light of the ratio laid down in the above cited decision, the primordial stand taken by ONGC as to the non-availability of sanctioned post to absorb the workers cannot stand and prays for appropriate orders to regularize the services of the concerned workmen from the date of their appointment and grant them service and other monetary benefits.

8. *Per contra*, Mr.Anand Gopalan, learned counsel representing Mr.T.S.Gopalan and Co., learned counsel appearing for the respondent/Management of ONGC has drawn the attention of this Court to the materials placed in the form of typed set of documents and would submit that the workmen concerned herein are continuing only by virtue of interim orders passed by this Court and in the light of the said fact, it is not open to them to contend that they are continuously employed without any break. It is further contended by the learned counsel appearing for the respondent/Management that admittedly, the petitioners services were

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engaged through Labour Contractor, namely Thai Security Services (P) Ltd. and M/s. Dialtone and Industrial Maintenance Services (P) Ltd. and in the light of the notification issued by the Central Government dated 09.11.1976, banning the employment of Contract Labour for Sweeping, Cleaning, Dusting and Watching of buildings owned and occupied by the establishment in respect of which the appropriate authority is the Central Government, terminated the workmen and had formed a Cooperative Society, namely Priyadharshini Indira Gandhi Cooperative Labour Contract and Society Limited and it was supplying Contract Labour for Watch and Ward, House Keeping, Messengers and Sanitary Workers. In the interregnum, a direction was issued to engage the services of CISF for security purposes and it was put to challenge in W.P.No.9688 of 1987 and while disposing of the same, this Court held that the settlement dated 16.12.1986 permitting formation of Cooperative Society for supply of manpower cannot be sustained in the light of the notification dated 09.12.1976, prohibiting employment of contract labour and declined the prayer for regularization and absorption.

9. The learned counsel appearing for the respondent/Management further submitted that from 12.01.1988 onwards, ONGC entered into contract with the said Society and took policy decision to employ the

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workmen of the said Society on Fixed Term basis and accordingly, applications were collected from willing employees of the Society and letters of Term Based appointment were issued conforming the temporary employment from 13.01.1988 to 29.02.1988. It is also the submission of the learned counsel appearing for the respondent/Management that as per the major policy decision, a Company came to be formed, namely Oil and Natural Gas Corporation Limited and as a consequence, number of Term Based Employees got reduced. The learned counsel appearing for the respondent/Management further submitted that the Competent Authority periodically gave sanction for creation and appointment of 11 posts of Junior Attendants and 5 posts of Junior Sanitary Cleaners and out of 36 term based appointees, who were working as Messengers, 11, who met the prescribed criteria were appointed as Junior Attendants and similarly, 5 term based appointees were appointed as Junior Sanitary Cleaners and the said appointments were made in March 1999 and the workmen who are concerned herein had also participated and became unsuccessful and also took a stand that even assuming without admitting that they are entitled for regularization, they cannot be regularized right from the year 1988, but only from the year 2000 and would further add that in the absence of sanctioned posts, appointment cannot be made and by virtue of interim orders passed by this Court, concerned workmen continue to remain in service. Lastly it is

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contended by the learned counsel appearing for the respondent/Management that this Court, in exercise of it's jurisdiction under Article 226 of the Constitution of India, may not act as an appellate body/forum to test the impugned order passed by the Tribunal and since the findings of the Tribunal came to be rendered based on proper adjudication of oral and documentary evidence, the said findings may not be interfered with and prays for dismissal of this Writ Petition. The learned counsel appearing for the respondent/Management, in support of his submissions, relied on the following judgments:

(i) State of Gujarat and Another v. Karshanbhai K. Rabari and Othes [2006 (3) LLJ 359]

(ii) Accounts Officer (A&I), APSRTC and Others v. K.V.Ramana and Others [2007 (1) LLJ 1042]

(iii) Oil & Natural Gas Corporation Ltd. v. Engineering Mazdoor Sangh [(2007) 1 SCC 250]

(iv)R.Rathakrishnan v. Deputy Registrar of Cooperative Societies, Dindigul [2007 (4) LLN 868]

(v) Divisional Manager, Aravali Gold Club and Another v. Chander Hass and Another [(2008) 1 SCC 683].

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10. This Court paid it's best attention to the rival submissions and also perused the entire materials placed before it and also considered the decisions relied on by the respective learned counsel appearing for the parties.

11. The following questions arise for consideration in this writ petition :

(i) Whether the findings of the Central Government Industrial Tribunal cum Labour Court, Chennai in I.D.No.27 of 2005, holding that for want of sanctioned posts, regularization cannot be done, is sustainable?

(ii) To what other relief, workmen are entitled to?

12. Workmen concerned herein were originally 17 in number and out of them, one Thiru.A.Abraham, CPF No.82816, who was working as Cleaner, died and one Thiru.S.T.Yehappan, CPF No.73694, who was working as Messenger, retired from service. It is relevant to extract the service particulars of the workmen including the above two of them, one who retired and another died:

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Sl.No.	*CPF No.*	*Name*	*Designation*	*Date of Joining*	*Educational Qualification*	*Community*
1	73662	K.Selvam	Messenger	13.01.1988	10th Pass	SC
2	73663	P.Vasudevan	Messenger	13.01.1988	10th Fail	OC
3	73667	N.Mani	Messenger	13.01.1988	10th Pass	SC
4	73670	T.Radhakrishnan	Messenger	13.01.1988	10th Pass	OC
5	73671	M.Subramani	Messenger	13.01.1988	8th Pass	SC
6	73680	S.Sundarababu	Messenger	13.01.1988	10th Pass	SC
7	73682	K.Janarthanan	Messenger	13.01.1988	10th Pass	MBC
8	73683	P.Ravi	Messenger	13.01.1988	10th Fail	OC
9	73686	K.Sabapathy	Messenger	13.01.1988	10th Pass	SC
10	73689	M.Jabbar	Messenger	13.01.1988	10th Pass	BC
11	73690	K.Vijayasekar	Messenger	13.01.1988	4th Pass	SC
12	73691	B.Srinivasan	Messenger	13.01.1988	10th Pass	MBC
13	73694	S.T.Yehappan	Messenger	13.01.1988	**Retired**	OC
14	73695	E.Murthy	Messenger	13.01.1988	8th Pass	MBC
15	82815	R.Babu	Cleaner	13.01.1988	5th Pass	SC
16	82816	A.Abraham	Cleaner	13.01.1988	**Expired**	SC
17	82819	G.Raghu	Cleaner	13.01.1988	8th Pass	SC

Facts relating to initial engagement of workmen through manpower agencies and their subsequent engagement as Term Based Employees, are not in serious dispute.

13. During the course of arguments, it was brought to the knowledge of this Court by the learned counsel appearing for the respective parties that though some documents remain part of the records, due to inadvertence those documents have not been marked and therefore, by consent of either side, the following documents were marked as Court Exhibits, vide order dated 14.12.2017:

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Exhibits	***Details***
Ex.C1	Approval for continuing engagement of Term Based Messengers and Term Based Cleaners at RO, Chennai for one year from 01.04.2000 dated 23.03.2000
Ex.C2	Working Paper (NP-61) dated 13.08.2004
Ex.C3	Working Paper (NP-68) dated 25.02.2005

Materials/Exhibits have also been appended in the typed of documents filed along with this writ petition. A perusal and consideration of the said exhibits would disclose that a note order dated 28.05.1988 was put up by Deputy Director (Industrial Relations) of the respondent stating among other things that the Headquarters had advised them to engage Housekeeping and Messenger Services through Cooperative Societies and the said formation and engagement of Cooperative Society for House Keeping would still attract Section 10 of the Contract Labour Act and therefore, it was proposed that Housekeeping personnel may be allowed to continue till such time they form a separate society and it has not been done so and hence, a proposal was mooted out to continue their services till they form a separate Cooperative Society. As per the final endorsement made, approval has been granted for continuing of 60 workmen (37 Messengers + 21 Sanitary Cleaners + 2 Cleaning Supervisors) for a period of three months i.e., from 01.04.1996 to 30.06.1996, under Ex.M20. Under Ex.M21, their services were extended for a further period of nine months from 01.07.1996 to 31.03.1997 or till such time a permanent arrangement is made. Under Ex.M22, it is indicated that since the creation of 12 posts is

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expected to take some more time and in the meanwhile, SRBC has continued to engage the services of 21 Sanitary Cleaners, 2 Supervisors and 37 Messengers on the same terms and conditions for the period beyond 31.03.1997, gave a positive recommendation for engagement of 60 Term Based personnel on the existing terms and conditions. It is also indicated that the proposal for creation of 12 posts as recommended by GM (HRG) will thereafter be re-submitted for obtaining the approval of Director (Finance) and CMD. In the running page in the note order dated 20.05.1999 put up by the Manager (IE) -HRG, it has been stated that "A comprehensive manpower assessment study for Regional and associated offices at Chennai is under progress being conducted by Regional IE Cell in association with HRG and the requirement of Messengers may be reviewed after the total manpower, particularly the strength of officers, is known, but this study is likely to take some more time". The said official, vide note order dated 20.05.1999, prayed for according approval for engagement of 25 Messengers and 6 Cleaners on Term-Base for a year from 01.04.1999 to 31.3.2000, as requested by the Region.

14. Under Ex.C1, approval was sought to continue the engagement of the existing 14 Term Based Messengers and 3 Term Based Cleaners for a further period from 01.04.2000 to 31.03.2001 and it was accorded. Under

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Ex.C2, working papers was put up with regard to the case pertaining to 14 Messengers and 3 Cleaners and it has been indicated that 14 Messengers have raised a dispute before ALC(C) in view of the Court's directive and the Union also has raised the dispute in respect of 3 Cleaners before ALC(C) and therefore, all the 17 persons are covered under Industrial Dispute and Status-Quo is to be maintained in respect of them. A recommendation has also been made for engaging those 17 persons in the Regional Office at Chennai for a period of one year from 01.04.2004 to 31.03.2005 or vacation of the stay, whichever is earlier and it was also accorded. Under Ex.C3, their services were extended from 01.04.2005 to 31.03.2006.

15. In the counter affidavit filed before the Tribunal, the Management/ONGC took a stand in paragraphs 20 and 21 as to the creation and filling up of posts and it is relevant to extract the same:

> "20. On 15.12.1997, the Competent Authority gave sanction for creation and filling up of 12 posts of Junior Sanitary Cleaners for the Regional Office at Chennai. The two supervisors and 21 cleaners who were on term appointment basis were called for interview and 12 of them who met the prescribed criteria were appointed after observing the reservation policy of the Government of India.
>
> 21. On 18.12.1998 the Competent Authority gave approval for creation and appointment of 11 posts of Junior Attendants and 5 posts of Junior Sanitary Cleaners. Out of 36 term appointees, who were working as Messengers, 11 who met the prescribed criteria were appointed as Junior Attendants. Similarly 5 term appointees were appointed as Junior Sanitary Cleaners. The appointments were made in March 1999. Again

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> in the year 2000, the Competent Authority gave sanction for creation and appointment of 11 posts of Junior Attendants and 3 posts of Junior Sanitary Cleaners. 11 term appointees who were working as Messengers and who met the prescribed criteria were appointed as Junior Attendants and 3 Sanitary Cleaners on term basis were appointed as Junior Sanitary Cleaners. Out of the 37 Messengers, who were parties to W.P.No.777/1997, on Balakrishnan expired. The remaining 14 term appointees were being retained in view of the pendency of the writ petition."

Thus, it appears that the need to employ them is subsisting and the primordial contention put forward by the respondent/Management is that in the absence of sanctioned posts, the concerned workmen cannot be accommodated.

16. Oil and Natural Gas Corporation Limited, Cauvery Project, Pondicherry had filed W.P.No.1846 of 2000 against the Petroleum Coal Labour Union, represented by its General Secretary and others, praying for issuance of a Writ of Certiorari calling for the records pertaining to the award in I.D.No.66/91 dated 26.05.1999, on the file of the Industrial Tribunal at Chennai, wherein certain directions have been issued to regularize the services of the workmen concerned with effect from 14.01.1990, the date on which all of them had completed 480 days of attendance. The learned Judge, in the said writ petition, taking into consideration the various decisions including the judgment in ***Uma Devi v. State of Karnataka and Others [2006 (4) SCC 1],*** posed a question as to whether workmen concerned in the writ petition were illegally appointed

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and in paras 41 and 42 of the said decision, observed as follows:

> "41. A deep reading of the said Act would go to show that it does not distinguish between regularly appointed temporary employees and irregularly appointed temporary employees. It is an affirmative Act in favour of the temporary employees who have worked for more than 480 days in a period of two calender years to get regularised in their service. To repeat, it is immaterial as to whether such employees were regularly appointed by following the procedure for selection and appointment or irregularly appointed. When the said Act has been upheld by the Hon'ble Supreme Court, in my considered opinion too, there can be no gain saying in contending that the Industrial Tribunal / Labour Court cannot issue a positive direction to regularise irregularly appointed temporary employees who had worked for a period of more than 480 days in two calendar years. This is, exactly, the view taken by the learned single Judge [Justice K.Chandru] of this Court in paragraph 38 of the Judgement which runs as follows:-
>
> > 38. Once there is a valid State enactment providing for relief to such of those workmen deemed permanency to those who had completed 480 days' of service within a period of two calendar years then, such workmen getting permanent status cannot be questioned by any Management. Such conferment of permanent status to the workmen cannot be labelled as violation of Articles 14 and 16 of the Constitution. The effect of a local enactment conferring permanent status to workmen was never considered by any Court so far.
>
> 42. Coming to the factual matrix, as I have already stated, there is no dispute that these petitioners were appointed on temporary basis in the year 1988 and they have been continuously working [i.e.,] for more than 480 days in two calendar years. Of course, their appointments are all irregular, even then they are entitled for regularisation, in view of the law laid down by the Hon'ble Supreme Court in Maharashtra Road Transport Corporation's case and followed by this Court in Hindustan Petroleum Corporation Limited v. The Presiding

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> Officer, Central Government Labour Court-cum-Industrial Tribunal, 2008 (4) CTC 819. Thus, I do not find any infirmity in the award passed by the Industrial Tribunal warranting interference at the hands of this Court."

The learned Judge, citing the said reasons, had dismissed the Writ Petition, vide order dated 04.01.2011.

17. The above said order was put to challenge in W.A.No.1006 of 2011 and during the course of arguments in the said Writ Appeal, it was submitted by the learned counsel appearing for ONGC that appointment of workmen is an illegal one as they were appointed to the said post either through a contractor or through the Cooperative Society, without following the procedure contemplated for selection and appointment in the standing order of ONGC and in the light of the judgment in ***Uma Devi case*** (cited supra), such appointees/workmen cannot seek for regularization. The Division Bench, after taking into consideration the rival submissions, in para 15 observed as under:

> "15. After considering the nature of the evidence, which was placed before the Labour Court, which was appreciated by the learned Single Judge, we are of the firm view that the appointment of the said workmen cannot be termed to be an illegal appointment but was only a irregular appointment and therefore, they were entitled for regularization, having been employed on temporary basis from 1988 onwards."

Thus, the Division Bench, had dismissed the Writ Appeal, vide judgment dated 11.08.2011.

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18. The learned counsel for the petitioner placed heavy reliance upon the decision in ***Oil and Natural Gas Corporation Limited v. Petroleum Coal Labour Union and Others [(2015) 6 SCC 494]***, which was filed against the judgment dated 11.08.2011 made in W.A.No.1006 of 2011, which in-turn confirmed the order dated 04.01.2011 made in W.P.No.1846 of 2000. The appellant/ONGC put forward the following submissions before the Hon'ble Supreme Court of India, praying for interference and it is relevant to extract para 14 of the said judgment:

> "14...(a) The appointments of workmen were illegal not irregular, as they were made without proper competition among qualified persons
>
> (b)The concerned workmen do not possess the qualifications and training required for discharging duties as security guards against attacks by armed gangs or terrorists.
>
> (c) They were not working against sanctioned posts.
>
> (d) The sanction obtained subsequently was only for deployment of members of the CISF.
>
> (e) The concerned workmen were, as a stop gap arrangement, though not qualified but found physically fit, were employed for a short period anticipating the posting of CISF personnel.
>
> (f)They were not allowed to continue voluntarily by the management without intervention of any mandatory provision of law or orders of Tribunal and Courts. They could not be discharged and had to be allowed to continue only on account of legal compulsion, i.e. 33(1) of the I.D. Act 1947 and the interim orders of the learned single Judge and the Division Bench.
>
> (g) The management cannot be compelled by judicial order to regularise the services of unqualified and untrained workmen

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> as security guards for discharging duties which only qualified and trained members of an organised armed force could competently discharge."

It was also contended that the workmen concerned were not contract labourers and referred the matter to the Industrial Tribunal for adjudication. The appellant also took a stand that when the very appointment itself is illegal, no order regularizing the services of the workmen can be passed by the Tribunal. A legal plea was also taken that Certified Standing Orders cannot prevail over ***Uma Devi (3) case*** (cited supra) or Article 14 of the Constitution of India and therefore, the workmen cannot seek for regularization. However, the said submission was refuted by the learned Senior Counsel for the private respondents/workmen. The Hon'ble Supreme Court of India, formulated the following questions for consideration:

> ***"Whether the jurisdiction of the Tribunal to direct the Corporation to regularize the services of the workmen concerned in the posts is valid and legal?***
>
> ***Whether the appointment of the workmen concerned in the services of the Corporation is irregular or illegal?***

19. The Hon'ble Supreme Court of India found that all the workmen concerned have got the qualifications required for regularization and the Tribunal has got every power to adjudicate an industrial dispute and impose upon the employer new obligations to strike a balance and secure industrial peace and harmony between the employer and workmen and ultimately

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deliver social justice which is the constitutional mandate as held by it in catena of decisions, especially in the decision in ***Bharat Bank Ltd. v. Employees [AIR 1950 SC 188]***. The Hon'ble Supreme Court of India, while answering the first question held that the Tribunal has rightly passed an award directing the Corporation to regularize the services of the workmen concerned. As regards, second question, the Hon'ble Supreme Court of India, taking note of the notification dated 08.12.1976 issued by the Central Government, abolishing employment of contract labour for the posts of Watch and Ward, Dusting and Cleaning jobs in the Corporation under Section 10(1) of the Contract Labour (Regulation and Abolition) Act, 1970 and the formation of Cooperative Society, namely ***"Thai Security Service, Priyadarshini Indira Cooperative Society"***, have dispensed with the intermediary contractors. A plea was also made by the appellant/ONGC that the reason for not regularizing the workmen concerned under the Certified Standing Orders of the Corporation is allegedly due to the fact that the appointment of the workmen concerned was made without following the due procedure and therefore, appointments were illegal. However, the said submission was repelled by the Hon'ble Supreme Court of India by observing in para 31 that "*This Plea cannot be accepted by us in view of the legal principle laid down by this Court in the above decision, wherein it is clearly laid down that the Corporation cannot deny the rights of the*

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workmen by taking the plea that their initial appointment was contrary to Articles 14 and 16 of the Constitution".

20. In para 32 of the said judgment, the Hon'ble Supreme Court further observed that "even though due procedure was not followed by the Corporation for the appointment of the workmen concerned, this does not entitle them of their right to seek regularization of their services by the Corporation under th provisions of the Certified Standing Orders, after they have rendered more than 240 days of service in a calendar year from the date of the memorandum of appointment issued to each one of the workmen concerned in the year 1988. The Hon'ble Supreme Court has referred to Clause 2 of the Certified Standing Orders for Contingent Employees of ONGC which classifies contingent employees as (a) Temporary and (b) Casual and Clause 2(ii) states that a temporary workmen who has put in not less than 240 days of attendance in any calendar period of 12 consecutive months and who possess the minimum qualifications prescribed by Commission may be considered for conversion as regular employee. In para 33 of the said judgment, the Hon'ble Supreme Court observed that *"It is clear that the workmen concerned have clearly completed more than 240 days of services subsequent to the memorandum of appointment issued by the Corporation in the year 1988 in a period of twelve calendar months,*

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therefore, they are entitled for regularization of their services into permanent posts of the Corporation as per the Act as well as the Certified Standing Orders of the Corporation".

21. In para 35 of the said judgment, the Hon'ble Supreme Court of India observed that it is necessary for ONGC to first to modify the Certified Standing Orders by following the procedure provided under Section 10 of the Industrial Employment (Standing Orders) Act, 1946 as the same is a special enactment and therefore, prevails over the provisions of the ONGC Act and the Recruitment Rules. In para 36 of the said judgment, the Hon'ble Supreme Court of India held that the alleged policy decision taken under Section 30-A of the ONGC Act does not prevail over the Standing Orders framed under the Industrial Employment (Standing Orders) Act, 1946, which is a special enactment and therefore, held that the policy decision taken by ONGC is neither valid in law nor applicable to the case on hand.

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22. It is also very relevant to extract paras 44, 48 and 49 of the said judgment:

> "44.In light of the above said discussion and legal principles laid down by this Court in the cases referred to supra, we are of the considered view that the procedure of appointments adopted by the Corporation with respect to the

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concerned workmen initially appointed through contractors, subsequently through the Co-operative Society, and then vide memorandum of appointment issued to each one of the concerned workmen in the year 1988 and thereafter, continuing them in their services in the posts by the Corporation without following any procedure as contended by the learned senior counsel on behalf of the Corporation whose contention is untenable in law and their appointment can be said as irregular appointments but not as illegal as the same was not objected to by any other Authority of the Corporation at any point of time. But their appointment in their posts and continuing them in their services is definitely cannot be termed as illegal, at best it can be called irregular. Therefore, the Certified Standing Orders of the Corporation by all means apply to the concerned workmen.

48. Further, it has been contended by the learned senior counsel on behalf of the Corporation that in the absence of any plea taken by the workmen in their claim statement regarding unfair labour practice being committed by the Corporation against the concerned workmen, the learned single Judge and the Division Bench ought not to have entertained the said plea as it is a well settled principle of law that such plea must be pleaded and established by a party who relies before the Tribunal. In support of the above contention reliance was placed by him on the decision of this Court in Siemens Limited & Anr. v. Siemens Employees Union & Anr.[(2011) 9 SCC 775].

49. The said contention of the learned senior counsel on behalf of the Corporation is wholly untenable in law and the reliance placed on the aforesaid case is misplaced for the reason that it is an undisputed fact that the workmen have been appointed on term basis vide memorandum of appointment issued to each one of the concerned workmen in the year 1988 by the Corporation who continued their services for several years. Thereafter, they were denied their legitimate right to be regularised in the permanent posts of the Corporation. The said fact was duly noted by the High Court as per the contention urged on behalf of the Corporation and held on the basis of facts and evidence on record that the same attracts entry Item No.10 of Schedule V of the Act, in employing the concerned workmen as temporary employees against permanent posts who have been doing perennial nature of work and continuing them as such for number of years. We affirm the same as it is a clear

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case of an unfair labour practice on the part of the Corporation as defined under Section 2(ra) of the Act, which is statutorily prohibited under Section 25T of the Act and the said action of the Corporation warrants penalty to be imposed upon it under Section 25U of the Act. In fact, the said finding of fact has been recorded by both the learned single Judge and the Division Bench of the High Court in the impugned judgment on the ground urged on behalf of the Corporation. Even if, this Court eschews the said finding and reason recorded in the impugned judgment accepting the hyper technical plea urged on behalf of the Corporation that there is no plea of unfair labour practice made in the claim statement, this Court in this appeal cannot interfere with the award of the Tribunal and the impugned judgment and order of the High Court for the other reasons assigned by them for granting relief to the concerned workmen. Even in the absence of plea of an act of unfair labour practice committed by the Corporation against the concerned workmen, the Labour Court/High Court have got the power to record the finding of fact on the basis of the record of the conciliation officer to ensure that there shall be effective adjudication of the industrial dispute to achieve industrial peace and harmony in the industry in the larger interest of public, which is the prime object and intendment of the Industrial Disputes Act. This principle of law has been well established in a catena of cases of this Court. In the instant case, the commission of an unfair labour practice in relation to the concerned workmen by the Corporation is ex-facie clear from the facts pleaded by both the parties and therefore, the courts have the power to adjudicate the same effectively to resolve the dispute between the parties even in the absence of plea with regard to such an aspect of the case."

Ultimately, the Hon'ble Supreme Court of India has confirmed the judgment passed by the Division Bench dated 11.08.2011 made in W.A.No.1006 of 2011.

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23. Now this Court considers the decision relied on by the learned counsel appearing for the respondent/Management.

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23.1. In ***Oil and Natural Gas Corporation Ltd. v. Engineering Mazdoor Sangh [(2007) 1 SCC 250]***, an industrial dispute was raised by the respondent Sangh for regularization of the services of workmen who worked as casual/contingent/temporary workmen. The Union filed a complaint under Section 33-A of the Industrial Disputes Act, 1947 alleging that pending reference, ONGC has started giving work to contractors in preference to the casual/contingent/temporary workmen and thereby altered the terms of service of the workmen and committed breach of Section 33 of the said Act. The Tribunal, vide award dated 30.10.1993, held that it was not permissible for the Tribunal to examine whether the work of ONGC was seasonal or not or whether ONGC had committed breach of terms of service of the workmen by giving the work to contractors and the Tribunal directed ONGC to follow the principle of "Last Come First Go" in case it wanted to terminate the services of casual/temporary workmen on the ground that they had not worked and therefore, ONGC was required to obtain prior permission of the Tribunal under Section 33(1)(a) of the I.D. Act. The Tribunal, after taking notice of Rule 2 of the Certain Standing Orders held that a casual workman who put in attendance of 180 days or more days in 12 consecutive months automatically became a temporary workman who would after completion of 240 days of attendance in any period of 12 consecutive months and possessing qualifications be considered for conversion as a

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regular employee.

23.2. The said order was put to challenge before the High Court of Gujarat, which modified the award holding that the employees who fulfill the requirement of 240 days or more and the minimum qualifications under the ONGC (Recruitment and Promotions) Regulations, 1980 in accordance with the relevant Certified Standing Orders shall be considered on par with regular employees for the benefits which are given to regular employees and they will have to wait according to their turn for being made permanent as and when permanent posts become available. The said order was put to challenge by filing an appeal before a Division Bench, which disposed of the appeal by directing that the workman concerned should be notionally treated as regularized with effect from 01.05.1999. Aggrieved by the same, the ONGC/Management has filed SLP before the Hon'ble Supreme Court and it was converted as Civil Appeal.

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23.3. The Hon'ble Supreme Court disposed of the appeal by setting aside the judgments passed the learned Single Judge and the Division Bench and found that the directions given by the Tribunal are allowed to stand.

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24. The primordial submission made by the learned counsel appearing

for the respondent/Management is that as per ONGC – Modified Recruitment & Promotion Regulations, 1980, the existing employees with qualification below standard VIII will be treated as under qualified including Sanitary Cleaner and Mali recruited under MRPR' 1980 and for the post of Junior Attendant, the minimum education qualification prescribed is a Matriculate. Since the concerned workmen did not fulfill the necessary qualifications, they cannot be considered for regularization. The learned counsel appearing for the respondent/Management has drawn the attention of this Court to the decision in ***Accounts Officer (A&I), APSRTC and Others v. K.V.Ramana and Others [2007 (1) LLJ 1042 (SC)]***, wherein it has been held that long period of service is not a ground for regularization and regularization of contractual or casual employees *dehors* rules not to be granted by Courts.

25. The learned counsel appearing for the respondent/Management also relied upon the decision of the Hon'ble Supreme Court in ***Divisional Manager, Aravali Golf Club and Another v. Chander Hass and Another [(2008) 1 SCC 683]*** and would submit that in the absence of any sanctioned post, Court cannot pass an order of direction for regularization and it is the stand of the respondent/Management throughout that no sanctioned posts are available to accommodate the concerned workmen and that apart, they

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did not fulfill the minimum educational qualification and as such, their services cannot be regularized.

26. The learned counsel appearing for the respondent/ONGC also placed reliance upon the decision in ***International Airport Authority of India and International Air Cargo Workers' Union and Another [2009 LLR 923]***, which dealt with the issue relating to non-absorption of workmen and would submit that in the above said decision, it was held that the workmen therein are not entitled to absorption as they were regular employees of Air Freight and that IAAI had no obligation to absorb or employ them and admittedly the workers were contract employees of the respondent/ONGC and on formation of the Society, being members of the Society, continue to work as Messengers and Sanitary Workers etc., and as such, they are not entitled for regularization.

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27. Lastly it is contended by the learned counsel appearing for the respondent/Management that there cannot be any positive direction to the respondent/ONGC to regularize the services of the workmen, if they were appointed in violation of the rules and regulations and drawn the attention of this Court to the Full Bench decision of this Court in ***R.Rathakrishnan v. Deputy Registrar of Cooperative Societies, Dindigul [2007 (4) L.L.N. 868]***

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and also reiterated his submissions by placing reliance upon the decision in ***State of Gujarat and Another v. Karshanbhai K.Rabari and Others [2006 (3) L.L.J. 359]***, which laid down the proposition that regularization cannot be a mode of recruitment, through which permanence can be given to *adhoc* employee.

28. In sum and substance, it is the submission of the learned counsel appearing for the respondent/Management that in the absence of any sanctioned posts and also on account of non-fulfillment of minimum qualification prescribed under ONGC Modified Recruitment & Promotion Regulations, 1980, the concerned workmen are not entitled for regularization and further that during the year 1997-1998, persons similarly placed were accommodated on account of the Competent Authority giving approval for appointment and though the workmen had participated in the said process, were unsuccessful and even for the sake of arguments that they are entitled for regularization, it cannot be done from the date of their initial appointment and hence, prays for dismissal of this writ petition.

29. A perusal and consideration of the materials placed before it would indicate that the respondent/ONGC has engaged the services of

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external agencies viz. M/s.Thai Security Services (P) Ltd. and M/s.Dialtone and Industrial Maintenance Services (P) Ltd. for doing menial jobs and on account of the notification dated 09.11.1976 issued by the Government of India, abolishing the employment of contract labour coupled with the fact that a policy decision has been taken to deploy CISF for security purposes and M/s.Priyadharshini Indira Gandhi Cooperative Labour Contract and Security Limited came to be formed in which the concerned workmen became members and the concept of "Term Based Employees" came into being and contract awarded to the members of the Society for doing menial jobs and on account of policy decision, terminated their services to employ them on Fixed Term Basis. During the year 1997-98, the Competent Authority has given sanction for filling up of sanctioned posts of Sanitary Cleaners, Junior Attendants etc., and the concerned workmen numbering 11, who met the prescribed criteria were appointed as Junior Attendants and the remaining 14 term appointees were retained in the light of pendency of W.P.No.777 of 1997.

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30. A perusal and analysis of Exs.M14, M20 to M22, C1 to C3 would also indicate that periodical approval has been granted to engage the services of 17 workmen and the said exhibits would also indicate that the need to employ them is also perpetual and required one.

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31. The Respondent/Management also took a plea as to the lack of prescribed qualification. Admittedly, the job being undertaken by the workmen are menial jobs and their services have been engaged from the year 1985 onwards through contractors and later on, through a Cooperative Society and subsequently, they continued to be employed on Term Basis and though pursuant to various interim orders passed by this Court pendency of the writ petition, they continue to work in that capacity, the fact remains that their requirement to the said job is continuous and required one. No doubt, pursuant to creation and filling up of posts accorded by the Competent Authority on 15.12.1997 and 18.12.1998 respectively and during 2000, the posts of Junior Attendants and Sanitary Cleaners were filled up. Though in the exhibits referred to above, especially in Ex.M23, it has been indicated as to the comprehensive manpower assessment study for the regional office and associated at Chennai is under progress and being conducted by Regional IE Cell in association with HRG, the result of the same has not been made known by the respondent/ONGC.

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32. In the considered opinion of the Court, the judgment rendered by the Hon'ble Apex Court in ***ONGC v. Petroleum Coal Labour Union and***

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Others [(2015) 6 SCC 494] is squarely applicable to the facts of this case and as such, the workmen in Sl.Nos.1 to 15, 17 of the tabulation extracted above in paragraph 12 are entitled for regularization and absorption in respect of posts held by them. Insofar as the date of regularization is concerned, admittedly they had also participated in the process to accommodate which took place on 15.12.1997, 18.12.1998 as well as in the year 2000 and they became unsuccessful and in the light of the said fact and also taking into consideration of the fact that they continue to work pursuant to various interim orders passed by this Court, they can be regularized from the date on which 11 Term Based appointees were appointed as Junior Attendants and so also 3 Sanitary Cleaners.

33. In the result, this Writ Petition is allowed and the impugned Award dated 17.05.2007 made in I.D.No.27 of 2005 passed by the Central Government Industrial Tribunal-cum-Labour Court, Chennai is set aside and the employees/workmen/Term Based Workers in Sl.Nos.1 to 15 and 17 in the tabulation extracted above in paragraph 12 are entitled for regularization as Messengers and Sanitary Cleaners with effect from the date of appointment of 11 Junior Attendants and 3 Sanitary Cleaners, as per the sanction accorded by the Competent Authority in the year 2000 [para 21 of the counter statement of the respondent dated 09.06.2005 filed in

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I.D.No.27 of 2005]. Insofar as the workmen in Sl.No.16, who died during pendency of the Writ Petition, his legal representatives, subject to the production of authenticated documents, is entitled to the benefits of his deemed regularization.

34. In the light of this order, the respondent/Management is also directed to accord consequential attendant benefit to the workmen/list annexed in Sl.Nos.1 to 15 and 17 as well as to the legal representative of the workman in Sl.No.16 viz., Mr.A.Abraham [CPF No.82816], within a period of twelve weeks from the date of receipt of a copy of this order and also send necessary communications to them. No costs.

[M.S.N., J.] [M.S., J.]
29.01.2018

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To
1.The Management of Oil & Natural Gas Corporation Ltd.,
SRBC, CMDA Buildings, Egmore, Chennai-600 008.

2.The Presiding Officer,
Central Government Industrial Tribunal-cum-Labour Court,
Chennai-600 006.

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M.SATHYANARAYANAN, J.,
and
M.SUNDAR, J.

jvm

Order in
W.P.No.35119 of 2007

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