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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-12892-1996 (O&M)

Date of Decision:01.12.2023

AVTAR SINGH AND OTHERS

.....Petitioners

V/s.

**GURU NANAK DEV UNIVERSITY, AMRITSAR THROUGH ITS
REGISTRAR**

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: None.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. An affidavit has been filed on behalf of the respondent-Guru Nanak Dev University, Amritsar in pursuance of the observations made by this Court in this Writ Petition on 17.09.2019 and it is stated that the petitioner No.1-Avtar Singh already stands directly appointed as Learner Binder in the respondent-University on regular basis w.e.f. 11.09.2003 and is working as such till date. However, the other 5 petitioners have not been regularized.

2. Reference has been given of the judgment “**Secretary, State of Karnataka and Others Vs. Uma Devi (3) and Others**” ; 2006 (4) SCC 1 to submit that the daily wagers cannot be regularized.

3. I have considered the affidavit filed by the respondent and find that in the case of **Uma Devi and Others** (Supra) the Supreme Court has held has under:-

“53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappal, R.N. Nanjundappa and B.N. Nagarajant and referred to in para 15 above, of duly qualified

persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.”

54. It is also clarified that those decisions which run counter to the principle settled in this decision, or in which directions running counter to what we have held herein, will stand denuded of their status as precedents.”

4. In view of above, since admittedly the petitioners No.2 to 6 have been working with the respondent-University for more than 10 years on daily wage basis and were therefore entitled to be regularized, the respondents have not denied the date of appointment of the petitioners as mentioned by them in para 2 of the Writ Petition. Having been appointed in the years 1990, 1991, 1992 and 1993, this Court is of the view that the representation made by petitioners (Annexure P-2) shall be examined in light of the judgment in the case of **Uma Devi and Others** (Supra) and all the persons who have been working for 10 years or more shall be regularized in the aforesaid terms and

shall also be paid the regular pay scale. Arrears shall also be calculated and paid to them.

5. The Writ Petition is allowed in the aforesaid terms accordingly.

December 1, 2023

Ess Kay

[SANJEEV PRAKASH SHARMA]

JUDGE

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No