

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9697 of 2022

1. Hari Shankar Kumar Son of Late Ram Ashish Roy Resident of Rajapur, Mainpura, P.O.- G.P.O. P.S. Patliputra, District- Patna, Pin Code- 800001.
2. Awadesh Prasad Yadav Son of Late Parmeshwar Prasad Yadav Resident of Village- Saleya, P.O. Barhat, P.S.- Barhat, District- Jamui.
3. Manoj Kumar II Son of Late Jogendra Prasad Resident of House No. 19, Adarsh Colony, Kidwaipuri, P.S. Kotwali, District- Patna.
4. Ravi Dayal Son of Ram Babu Resident of Panch Mandir, Alkapuri Road, P.O.- Anishabad, P.S. Gardanibagh, District- Patna.
5. Sanjay Kumar Sinha-I Son of Late Pashupati Nath Prasad Resident A/138, Housing Colony, Kankarbagh, P.S.- Kankarbagh, District- Patna, Pin Code- 800020.
6. Vijay Kumar Sinha Son of Late Pashupati Nath Resident of Ny - 7D, Behind Jhunjhun Mahal, P.S.- Gardanibagh, District- Patna.
7. Subodh Kumar Son of Arjun Mandal Resident of B/20, Indirapuri Colony, Ashiana Road, P.O.- B.V. College, P.S.- Shastrinagar, District- Patna- 800014.
8. Manoj Kumar Jha Son of Late Supendra Jha Resident of New Mithila Colony, Nasriganj, P.S.- Danapur, District- Patna.
9. Ram Prakash Mahto Son of Nathuni Mahto Resident of Village- Nawada Khalsapar, Walmi, Phulwari, P.S.- Phulwari Sharif, District- Patna.
10. Sanjay Kumar - I Son of Late Ram Krishna Ghosh Resident of Village, P.O. and P.S.- Bhikhanpur, District- Bhagalpur.
11. Suresh Prasad Rajak Son of Saryug Prasad Resident of Village- Dhadhuan, P.O. and P.S.- Desri, District- Vaishali.
12. Sunil Manohar Son of Late Ram Narayan Yadav Resident of Village and P.O.- Amari, P.S.- Khaira, District- Jamui.
13. Sanjay Kumar-IV Son of Makeswar Prasad Resident of Bazar Samiti, Saketpuri, P.S.- Bazar Samiti, District- Patna- 800016.
14. Mahesh Prasad Srivastava Son of Late Jai Narayan Prasad Srivastava Resident of Village- Dhanushi, P.O.- Ghataro, P.S. Kartaha, District Vaishali.
15. Ram Parvesh Ray Son of Late Yogendra Ray Resident of Village Magardahi, Ward No.- 29, P.S. and District- Samastipur.
16. Mithilesh Kumar Singh Son of Chandradeo Singh Resident of A-154, Housing Colony, Lohianagar, P.S.- Kankarbagh, District- Patna, Pin Code- 800020.
17. Brahmdeo Thakur Son of Ganpati Thakur Resident of Village and P.O.- Sijoliya, P.S.- Phulparas, District- Madhubani.
18. Chandra Shekhar Singh Son of Ram Vilash Singh Resident of Village- Bhajwana, P.O.- Nachap, P.S.- Manjhi, District- Chapra.
19. Vijay Kumar Son of Late Rishideo Roy Resident of Pahalega, P.O. and P.S.- Sonepur, District- Saran.



20. Rakesh Dwivedi Son of Sridahar Dwivedi Resident of B/18, Housing Colony, Kankarbagh, P.S.- Kankarbagh, District- Patna, Pin Code- 800020.
21. Sanjay Kumar Sinha - II Son of Rajeshwar Prasad Singh Resident of Chak Mushallahpur, Sweet Heart Lane, Ram Niwas Bhawan, P.S.- Kadamkuan, District- Patna- 800006.

... .. Petitioner/s

Versus

1. The State of Bihar through Addl. Chief Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
2. The Addl. Chief Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
3. The Joint Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
4. The Director, Secondary Education, Education Department, Government of Bihar, New Secretariat, Patna.
5. The Deputy Director cum Leave Reserve Officer, Secondary, Education Department, Government of Bihar, Patna.
6. The Chairman, Bihar School Examination Board (Senior Secondary), Budh Marg, Patna.
7. The Secretary, Bihar School Examination Board, (Senior Secondary), Budh Marg, Patna.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 9259 of 2022

1. Prabhakar Kumar Dubey, Son of Kameshwar Dubey, At-1-H/6 Kanti Factory Road, Mahatama Gandhi Nagar, P.S.-Agamkuan (Kankarbagh), District-Patna-26.
2. Md. Faizur Rahman, son of Late Md. Habibur Rahman, At Nafis Colony, Baripath, P.S.-Pirbahor, District-Patna-800006.
3. Anil Kumar Sinha, son of Shyam Bihari Lal, Resident of Old Sub Jail, New Mahila Jail Buxar, Near Sheo Mandir, Jail Gate Ke Pass, Civil Line, Ward No. 18 Buxar, P.O. and P.S.-Buxar, District-Buxar, Pin-802101.
4. Lalan Yadav, son of Late Chhotelal Yadav, resident of Village-Piprakhas, P.O.-Mirganj, P.S.-Mirganj, District-Gopalganj.
5. Nadim Ahmad, son of M.M. Ahmad, Resident of New Azimabad Colony, Near P.K. Colony, P.O.-Mahendru, P.S.-Bahadurpur, District-Patna-6.
6. Manoj Kumar-I, son of Siyaram Yadav, Resident of Village and P.O.-Shivram, P.S.-Bahera, District-Darbhanga.
7. Santosh Kumar Yadav, Son of Late Kashinath Yadav, Resident of Village



and P.O.-Barkagaon, P.S.-Mirganj, District-Gopalganj.

8. Bhim Yadav, Son of Shri Ramji Yadav, Resident of Village-Taljhari, P.O.-Gaura, P.S.-Laxmipur, District-Jamui.
9. Virendra Kumar Singh, son of Late Hari Narayan Singh, At and P.O.-Bari Rai Bhan, P.S.-Gopalganj, District-Gopalganj.
10. Parmeshwar Prasad-1, son of Late Tula Sah, At-Mitramandal Colony, Saket Vihar, P.O.-Anisabad, P.S.-Phulwarisharif, District-Patna.
11. Manoj Kumar-III, son of Late Prof. Ramesh Chandra, Residing of Khalasitola (Near Old City Court), P.S.-Guljarbagh, District-Patna-7.
12. Sardar Govind Singh, son of Shri Dayal Singh, Resident of Village-Madheli, P.O.-Jarlahi, Via-Gurubazar, P.S.-Katihar, District-Katihar.
13. Ashok Kumar Yadav @ Ashok Kr. Yadav, son of Bir Narayan Yadav, Resident of Village-Khurt, P.O.-Chapra Ramnagar, P.S.-Jankinagar, District-Purnia.
14. Ajit Kumar, son of Sahdeo Yadav, Resident of Village and P.O.-Barhat (Saliya), PS-Barhat, Distric-Jamui.
15. Krishna Raj, son of Sukhdeo Mandal, Resident of Village-Salaipa, P.O. and P.S.-Barhat, Disrict-Jamui.
16. Umesh Kumar, Son of Kameshwar Singh, At Laxmi Sadan near Dainik Jagran, Kidwaipuri, P.S. Kotwali, District-Pana.
17. Muna Khan, Son of Late Zahir Khan, At and P.O.-Line Bazar, P.S.-Mirganj, District-Gopalganj.
18. Arbind Kumar @ Arbind Kumar Singh, son of Bhuwaneshwar Singh, Resident of Village-Raniganj (Riwan Tola), P.O.-Merryganj, P.S.-Araria, District-Araria.
19. Dharmendra Kumar Dheeraj, son of Tirpit Narayan Rai, Resident of Village and P.O.-Rustompur, P.S.-Raghopur, District-Vaishali.
20. Md. Aslam, son of Late Md. Isha, Resident of Village-Paikauli Bado, P.O. Paikauli Bado, P.S.-Phulwaria, District-Gopalganj.
21. Upendra Yadav, Son of Deoraj Yadav, C/o Rajaram Choudhary Biscoman B71 Colony, P.O.-Gulzarbagh, P.S.-Alamganj, District-Patna-7.
22. Uday Kant Prasad, son of Umakant Prasad, Resident of Village-Nawadih, P.O.-Jarmundi, P.S.-Jarmundi, District-Dumka (Jharkhand).
23. Raghunath Mahato, son of Late Dasai Mahato, Resident of Village-Bishanpur, P.O. and P.S.-Samastipur, District-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Joint Secretary, Education Department, Government of Bihar, Patna.



4. The Director, Secondary Education, Education Department, Government of Bihar, Patna.
5. The Deputy Director cum Leave Reserve Officer, Secondary Education Department, Government of Bihar, Patna.
6. The Chairman, Bihar School Examination Board (Senior Secondary), Budh Marg, Patna.
7. The Secretary, Bihar School Examination Board (Senior Secondary), Budh Marg, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 13882 of 2022

1. Ram Suresh Son of Harinandan Singh Resident of Village-New Atwarpur, Om hari Niwas, House No.-130, Ram Janki Path, P.O.-Kurthaul, P.S.-Parsa Bazar, District-Patna Pin Code-804453
2. Amit Kumar Son of Ram Das Singh Yadav Resident of Khemnichak, Shiv Nagar, Road No.-2, P.O.-New Jaganpura, P.S.-Ram Kriishnanagar, District-Patna, Oun Code-800027
3. Subhash Chandar Mandal Son of Ram Janam Mandal Resident of Naya tola, P.O.-Danapur, P.S.-Danapur, District-Patna, Pin Code-801503
4. Shree Prasad Yadav Soh of Satyanarayan Yadav Resident of Mohalla-Nandgaon, P.O. and P.S.-Shastrinagar, District-Banka, Pin Code-800023
5. Sunil Kumar Nirala Son of Indralal Thakur Resident of Village-Mallick Tola, P.O. and P.S.-Banka, District-Banka, Pin Code-813102
6. Mohammed Alii Ansari Son of Muzibullah Ansari Resident of Village-Khansamatola, P.O. and P.S.-Hathuwa, District-Gopalganj, Pin Code-841436.
7. Binod Kumar Son of Surya Narayan Sahu, Resident of Prabhat Niketan, Prabhat Granthagar, 31/361, New Patliputra Colony, P.O. and P.S.-Patliputra, District-Patna, Pin Code-800013
8. Rajeshwar Prasad Son of Ramchandra Prasad Resident of Village-Golapur, P.O.-Maghra, P.S.-Deepnagar, District-Nalanda, Pin Code-803101
9. Anrudh Rai Son of Jagdish Rai Resident of Village-Bakhri, P.O.-Maniyara, P.S.-Kuchaikot, District-Gopalganj, Pin Code-841505
10. Ram Nath Yadav Son of Late Bam Bam Pahalwan, Resident of Mohalla-Kathautiya gali, P.O. and P.S.-Chowk Patna City, District-Patna. Pin Code-800008.
11. Birendra Kumar Son of Gopal Ray @ Gopal Das Resident of Village-Kachaharipur, P.O.-Banarjhula, P.S.-Sonbarsa, District-Sitamarhi, Pin Code-843317
12. Sarajul Haque Ansari Son of Md. Wahid Ansari Resident of Village-Salempatti, P.O.-Miraganj, P.S.-Miraganj, District-Gopalganj, Pin Code-



841438

13. Sudhir Kumar Singh Son of Nand Kishore Prasad Singh Resident of Hanuman Nagar, New Punaichak Behind of State Bank of India, P.O. and P.S.-Shastrii Nagar Near Jagdewan Kunj, District-Patna, Pin Code-800023
14. Viishwanath Prasad Son of Rangila Singh Resident of Village-Jaganpura, New Bye Pass Road, P.O.-New Bye Pass Road, P.O.-New Jaganpura (Subhashnagar), P.S.-Ram Krishna Nagar, District-Patna Pn Code-800027.
15. Tej Narayan Mahto Son of Ram Sevak Mahto Resident of Village-Pipraghat, P.O.-Bagaha, P.S.-Kanhauli, District-Sitamarhi, Pin Code-843317
16. Arun Kumar Son of Bhagwan Prasad Resident of Ghagha Ghat, Balu Ghat, P.O.-Mahendru, P.S.-Sultanganj, District-Patna Pin Code-800006
17. Vinod Purbey Son of Late Saryug Purbey Resident at Judges Colony, Raghunath Path (R.P.S. More), P.O.-P.S.-Danapur, District-Patna Pin Code-801503
18. Subodh Kuamr Yadav Son of Sadanadn Yadav Resident of Village and P.O.-Pothia, P.S.-Simraha, Dstrict-Araria, Pin Code-854318
19. Jai Prakash Bariyait Son of Madan Bariyait Resident of Village-Karjain, P.O. and P.S.-Karjain Bazar, District-Supaul, PIn Code-852215
20. Kiran Kumari Daughter of Ramashray Prasad Singh Resident of Village and P.O.-Arhit, P.S.-Ghosi, District-Jehanabad, Pin Code-804408
21. Zaved Ahmad Son of Jauwad Hussain Ansari Resident of Mohalla-Badalpura, P.O.-Khagaul, P.S.-Khagaul, Dstrict-Patna, Pin Code-801105
22. Ramesh Kumar Son of Bidashi Chaudhary Resident of Village-Pakari, P.O.-Peuli, P.S.-Mirganj, District-Gopalganj, Pin Code-841436
23. Sanjay Kumar Son of Bir Narayan Yadav Resident of Village-Khunt, P.O.-Chopra Ramnagar, P.S.-Jankinagar District-Purnia, Pin Code-854102
24. Sanjay Kumar Son of Kapildeo Singh Resident of Village and P.O.-Baskhora, P.S.-Ghogardiha, District-Supaul, Pin Code-852138

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. Additional Chief Secretary, Education Department, Bihar, Patna.
3. Joint Secretary, Education Department, Bihar, Patna.
4. Bihar School Examination Board, Patna through its Secretary
5. Chairman, Bihar School Examination Board, Patna.
6. Secretary, Bihar School Examination Board, Patna.

... .. Respondent/s

with



Civil Writ Jurisdiction Case No. 15556 of 2022

1. Harendra Kumar Singh Son of Mannu Lal Yadav Resident of Village-Gola Road, P.O. and P.S.-Danapur, District-Patna, Pin Code-801503
2. Amit Kumar Singh Son of Braj Ballabh Singh Resident of Village-Chaura, P.O.-Khusrupur, P.S.- Daniyanwa, District-Patna. Pin Code-803202
3. Shatrughan Sahani Son of Bhola Sahani Resident of Village- Jagdishpur, P.O.-Nehra, P.S.-Manigachhi, District-Darbhanga, PIn Code- 847233

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. Additional Chief Secretary, Education Department, Bihar, Patna.
3. Joint Secretary, Education Department, Bihar, Patna.
4. Bihar School Examination Board, Patna through its Secretary
5. Chairman, Bihar School Examination Board, Patna.
6. Secretary, Bihar School Examination Board, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 15559 of 2022

1. Parmeshwar Prasad - II Son of Ambika Rai resident of Village - Jogipur, Kankarbagh, P.O. - Lohiya Nagar, P.S. - Patrakar Nagar, District - Patna, Pin Code - 800020.
2. Suresh Kumar, Son of Ayodhya Prasad Resident of Village - Mahadeopuri, P.O. - G.P.O, P.S. - Gardanibagh, District - Patna, Pin Code - 800001.
3. Alok Ranjan, son of Late Bhuneshwar Lall Resident of Flat No. - 303, Manja Enclave, Road No. - 0, Near Gandhi Murti, Patel Nagar, P.S. - S.K. Puri, District - Patna, Pin Code - 800023.
4. Sharwan Kumar Ray, Son of Late Gorakh Prasad Rai resident of Village - Hezalpur, P.O. - Basantpur Maker, P.S. - Maker, District - Saran, Pin Code - 841401.
5. Mukesh Kumar, Son of Late Tapeswar Yadav, Resident of Reshmi Complex, P.O. - Kidwaipuri, P.S. - Kotwali, District - Patna, Pin Code - 800001.
6. Kalanand Kaushal, Son of Late Sukhdeo Prasad Yadav, Resident of Ganga Tower, Flat No. 22, LCT Ghat, Mainpura, District - Patna, Pin Code - 800001.
7. Dinesh Kumar, Son of Late Narayan Prasad Singh Resident of Village Narauli, P.O. - Binda, P.S. - Mushahari, District - Muzaffarpur, Pin Code 843119.



8. Ashok Kumar Rajak, Son of Late Jalim Baitha, Resident of Village - Akbarpur, P.O. - Satichauta, P.S.- Bhagwanpur, District - Vaishali, Pin Code - 844504.
9. Vinod Ram, Son of Dhuran Ram, Resident of Village - Uphraul, P.O. - Bakhara, District - Muzaffarpur, Pin Code - 843101.
10. Abhay Kumar Singh, Son of Nasib Singh Resident of Swasti Bhawan, Indira Nagar, Road No. 9 C, P.O.- G.P.O., P.S. - Jakkanpur, District - Patna, Pin Code - 800001.
11. Satyadeo Prasad, Son of Girwardhari Singh, resident of Vijay Nagar, Hanuman Nagar, P.S. - Patrakar Nagar, District - Patna, Pin Code - 800020.
12. Rakesh Kumar, Son of Shyam Narayan Prasad resident of Churi Market, Kadam Kuan, Nala Road, P.S. - Kadam Kuan, District - Patna, Pin Code - 800003.
13. Surendra Kumar, Son of Jawahar Lal Resident of Road No. - 21, House No. - 66, S.K. Nagar, P.S. - Kotwali, District - Patna, Pin Code- 800001.
14. Jitendra Kumar, Son of Late Gopal Prasad resident of Churi Market, Kadam Kuan, Nala Road, P.S. Kadam Kuan, District - Patna, Pin Code - 800003.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. Additional Chief Secretary, Education Department, Bihar, Patna.
3. Joint Secretary, Education Department, Bihar, Patna.
4. Bihar School Examination Board, Patna through its Secretary.
5. Chairman, Bihar School Examination Board, Patna.
6. Secretary, Bihar School Examination Board, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 9697 of 2022)

For the Petitioner/s : Mr. Shakir Ahmad, Adv.
 For the State : Smt. Binita Singh (SC 28)
 For the B.S.E.B. : Mr. Satyabir Bharti, Adv.,
 Ms. Kanupriya, Adv.,
 Mr. Abhishek Anand, Adv.

(In Civil Writ Jurisdiction Case No. 9259 of 2022)

For the Petitioner/s : Mr. Shakir Ahmad, Adv.
 For the State : Smt. Shilpa Singh (Ga 12)
 For the B.S.E.B. : Mr. Satyabir Bharti, Adv.,
 Ms. Kanupriya, Adv.,
 Mr. Abhishek Anand, Adv.

(In Civil Writ Jurisdiction Case No. 13882 of 2022)

For the Petitioner/s : Mr. Abhinav Srivastava, Adv.
 For the State : Mr. Kameshwar Kumar (Gp17)
 For the B.S.E.B. : Mr. Satyabir Bharti, Adv.,



Ms. Kanupriya, Adv.,
Mr. Abhishek Anand, Adv.
(In Civil Writ Jurisdiction Case No. 15556 of 2022)
For the Petitioner/s : Mr. Abhinav Srivastava, Adv.
For the State : Mr. Madan Jeet Kumar (Gp 20)
For the B.S.E.B. : Mr. Satyabir Bharti, Adv.,
Ms. Kanupriya, Adv.,
Mr. Abhishek Anand, Adv.
(In Civil Writ Jurisdiction Case No. 15559 of 2022)
For the Petitioner/s : Mr. Abhinav Srivastava, Adv.
For the State : Smt. Binita Singh (Sc 28)
For the B.S.E.B. : Mr. Satyabir Bharti, Adv.,
Ms. Kanupriya, Adv.,
Mr. Abhishek Anand, Adv.

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

C.A.V. JUDGMENT

Date : 17-05-2024

Heard learned Advocate for the petitioners as well as learned counsel for the State.

2. As all the above mentioned writ petitions raise similar question of law under almost similar circumstances albeit little difference of facts, this Court proposes to dispose of the writ petitions by a common Judgment.

3. C.W.J.C. No. 13882 of 2022, C.W.J.C. No. 15556 of 2022 and C.W.J.C. No. 15559 of 2022 have been filed by different sets of petitioners, but similarly placed for the following reliefs:-

“1. (i) Issuance of a direction, order or writ, including writ in the nature of certiorari quashing office order dated 27/06/2022 bearing memo no. 702 passed by the Secretary of the Bihar School Examination Board, Patna, by which the representation



submitted by the petitioners, in furtherance of the directions passed by this Hon'ble Court in C.W.J.C. No. 10379/2021 by its order dated 25/02/2022. requesting the concerned authorities under the Board to consider their cases for regularisation of their services has been rejected in the most illegal and arbitrary manner on patently misconceived and erroneous grounds,

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the Education Department of the State Government as well as the Board to take steps towards considering the cases of the petitioners for absorption of their services in their respective capacities as Class-III employees in the services of the Board upon dissolution of the erstwhile Bihar Intermediate Education Council, Patna (hereinafter referred to as "the Council") in view of the fact that the petitioners had been appointed against their respective posts in the services of the erstwhile Council by the orders of the Chairman of the erstwhile Council and other similarly situated persons have already been absorbed in the services of the Board;

(iii) Issuance of a direction, order or writ, including writ in the nature of mandamus



commanding the concerned respondent authorities under the Education Department of the State Government as well as the Board to extend all the consequential benefits in terms of salary, arrears of salary, increments, seniority, promotion and continuity of service and other consequential benefits that the petitioners may be found to be entitled to upon absorption of their services against their respective posts in the services of the Board, in accordance with law with effect from the dates from which other similarly situated persons have been absorbed in the services of the Board and are being extended such benefits;

(iv) Issuance of a declaration holding that the petitioners are entitled for absorption of their services in their respective capacities in the services of the Board in view of the fact that they had been continuously working in the services of the erstwhile Council pursuant to their appointments against the respective posts strictly in accordance with law;”

4. I propose to deal with the factual circumstances of C.W.J.C. No. 9697 of 2022 and C.W.J.C. No. 9259 of 2022 subsequently.

5. In the above mentioned three writ petitions, it is alleged by the petitioners that they were working in the capacity



of Class-IV employees, under Bihar Intermediate Education Council established under the Bihar Intermediate Education Council Act, 1992 with the object to establish Intermediate Education Council for the purpose of bringing uniformity in Intermediate Education in the State of Bihar. The aforesaid 1992 Act came to be repealed on or about 2007 with the enactment of Bihar Intermediate Education Council (Repealed) Act, 2007.

6. With the approval of the State Government, the erstwhile Council decided to appoint altogether 318 posts and 69 additional posts of Officers, Class-III employees and Class-IV employees following the quota of reservation. It was decided that the appointments would be made on daily wage basis. The petitioners and other similarly placed employees on being selected by the Council continued to discharge their duties in their respective capacities on daily wage basis under the Council.

7. Be it mentioned here that approval of the aforesaid posts by the State Government under the signature of the competent authority of the Secondary, Primary and Adult Education Department, Government of Bihar was issued on 3rd December, 1994 under the provision of Section 47 of the Repealed Act, 1992. The petitioners in the above mentioned three writ petitions continued to work as daily wage employees on the



assurance by the erstwhile Council that they would be regularized. The petitioners in these batch of writ petitions are the employees, who were recruited against 69 posts having been sanctioned by the State Government vide Memo No. 894, dated 3rd December, 1994. That on 22nd May, 1995, an Advertisement was issued by the Council inviting applications from eligible candidates for consideration of their cases for appointment against a total 69 posts, which included 40 posts of Assistant, 20 posts of Routine Clerk in Class-III and 9 posts of Class-IV. Subsequently, on 7th August, 1995 another Advertisement was issued by the Council for appointment in 257 posts, including different Class-III and Class-IV posts which had been created by the Council. It was also directed that the said appointments would be made on the basis of the approval to be accorded by the State Government. However, the Council was empowered to prepare a panel in respect of the said 256 posts. The petitioners duly participated in the same selection test, but unfortunately no action with respect to considering their cases for appointment against the posts advertised was taken by the respondent authorities. Subsequently also the Council wanted to regularize the petitioners by giving weightage for their continued service, but due to failure on the part of the State Government to accord approval for sanction of



the said posts, the petitioners were not regularized. In the meantime, the Intermediate Education Council Act, 1992 was repealed by the Bihar Intermediate Education Council (Repeal) Act, 2007. The respondent authorities under 2007 Act formulated detail provisions for adjustment/regularization of the employees of the Council. On the basis of the decision taken by the Board, 248 ad-hoc employees including the petitioners continued in the services of the Board till the time of final decision was taken with respect to sanction/creation of 248 posts in favour of the Intermediate Board. In or about 2012 some Class-IV employees working under the erstwhile Council filed a writ petition bearing C.W.J.C. No. 753 of 2012. The said writ petition was disposed of on 3rd October, 2016 and by virtue of the said order 49 Class-IV employees working in the services of the erstwhile Council were absorbed. By an order dated 18th August, 2017, the services of altogether 187 persons including the present petitioners, who had been working under the erstwhile Council were discharged. The aggrieved persons filed different writ petitions before this Court.

8. Subsequently, the litigation between the daily wage workers and the respondent authorities travelled up to the Hon'ble Supreme Court. In Civil Appeal No. 1868 of 2018, arising out of



SLP (C) No. 34154 fo 2016, the Hon'ble Supreme Court passed the following order:-

“Having heard the learned counsel appearing for the respondents and having gone through the available records, we are of the view that in the particular facts and circumstances of this case, a direction should be issued in exercise of our jurisdiction under Article 142 of the Constitution of India, reiterating the observation made in our order dated 13.02.2018. Accordingly, without making it a precedent, we direct the respondents to absorb 10 petitioners and give a quietus to the decade long litigation between the parties.”

9. In view of such order passed by the Hon'ble Supreme Court on 5th October, 2018, the services of the appellants of the aforesaid Civil Appeal No. 1868 of 2018 were regularized. The present petitioners and along with other similarly situated persons subsequently filed C.W.J.C. No. 12847 of 2017. The said writ petition was disposed of with a direction upon the respondent authorities to consider the cases of the petitioner in terms of the orders passed by the Hon'ble Supreme Court in Civil Appeal No. 1868 of 2018 within a specific period of time. It is alleged by the petitioners that without considering the fact that they were initially appointed against sanctioned posts by the order of the Chairman of the erstwhile Council, the petitioners were not appointed by the orders of the competent authority and their claims for absorption



was rejected. This order of rejection compelled the petitioners to file a contempt petition before this Court which was registered as M.J.C. No. 1411 of 2019. The said contempt petition was consigned taking note of the issuance of the order dated 30th March, 2019 with a liberty to the petitioners to challenge the same in an appropriate proceeding. The petitioner challenged the said order before the Hon'ble Supreme Court in Special Leave to Appeal (C) No. 25710 of 2019, but it was dismissed on 13th November, 2019. Again similarly situated persons like the petitioners filed a writ petition before this Court bearing C.W.J.C. No. 16423 of 2021. The said writ petition was disposed of vide order dated 15th December, 2021 directing the respondent authorities to re-visit the grievance of the petitioners for the purpose of regularization and to pass a speaking order as to whether each of the petitioners fulfill the requisite conditions as stipulated in the Judgment. The petitioners again filed C.W.J.C. No. 10379 of 2021 challenging the order dated 30th March, 2019 issued by the concerned authorities under the Board and this Court disposed of the said writ petition vide order dated 25th February, 2022, setting aside the order dated 30th March, 2019, passed by the Board and directing the authorities to redress the grievance of the petitioners in the light of the order dated 15th December, 2021,



passed in C.W.J.C. No. 16423 of 2021. That on 26th June, 2022, vide Memo No. 702 issued by the Secretary of the Board petitioners' prayer were rejected in spite of the fact that they were appointed against the sanctioned posts. Secondly, they were discharging duties for more than 10 years without any break and thirdly, their initial appointment was based following the relevant Rules prevailing at the relevant point of time under 1992 Act. Hence, the instant writ petitions.

10. Writ petitions bearing C.W.J.C. No. 9697 of 2022 and C.W.J.C. No. 9259 of 2022 have been filed by two other sets of petitioners on the similar facts and circumstances as described above. However, it is frankly submitted by the learned senior counsel that the petitioners were not appointed against the sanctioned posts.

11. Learned senior counsel on behalf of the petitioners of the above mentioned writ petitions relies on the Annexures of C.W.J.C. No. 13882 of 2022. He refers to Annexure-15 of the aforesaid writ petition which is a letter issued by the Secretary, Bihar School Examination Board, Patna to the Director (Madhyamic Shiksha), Education Department, Patna on 6th October, 2013. The subject matter of the said letter was regularization of the petitioners, who were working as ad-hoc



employees in the Education Department. Referring to page 72 of the C.W.J.C. No. 13882 of 2022, it is submitted that the Bihar School Examination Board prepared a list of employees required for conducting different examinations and the requirement of 1241 posts. Deducting the number of posts, which are already with the Board, 687 posts were proposed to be created and it is stated that as per Rule 9 (1) of the Bihar School Examination Board Rule, 1963, the Board is competent to create such posts of Officers and other employees as may be determined by it, provided that no posts the maximum remuneration of which exists Rs. 745/- per month shall be created by the Board without prior approval of the State Government. In view of such letter dated 6th December, 2013, the Education Department wanted financial liability incurred by the Government in order to fulfill the proposal of creation of new posts. Annexure-17 is the reply of the Administrative Committee which looks after creation of additional posts with financial liability. It was informed that a sum of Rs. 29,71,01,736/- will be required for creation of new posts. It is also stated that the proposal is required to be vetted by the Departmental Minister. Secondly, concurrence of Finance Department is required. The said proposal was sent to the Education Department, the record of which is available at page 81



(Annexure-18) and the Education department sanctioned one post against 687 posts and remitted the file stating that the proposal for creation of the additional posts is under active consideration of the Education Department. Thus, it is submitted by the learned Senior Counsel that the Education Department was always agreeable in principle to create new posts to regularize the petitioners.

12. Learned senior counsel on behalf of the petitioners next takes me to Annexure-20, which is a copy of the order passed in C.W.J.C. No. 20210 of 2012 by a Coordinate Bench on 19th June, 2013. The aforesaid writ petition was filed to quash the report of the Five Men Committee dated 27th August, 2012 only to the extent by which the Committee has not recommended for absorption in Bihar School Examination Board, Patna and also to direct the respondents to absorb the services of the petitioners w.e.f. October, 1994, the date on which the petitioners were appointed against the vacant/sanctioned posts. The said writ petitions was disposed of with the following observations:-

“21. In view of the aforesaid Government Resolution dated 12.07.2012 and also in view of the Board’s recommendation dated 21.12.2012 no importance can be legally given to the aforesaid plea of reconstitution of the Three-Man Committee or to the report of any other Committee of the Board, especially when it cannot be disputed by the authorities of the State, and it was admitted by the authorities of the



Board that the petitioners were appointed by a competent authority on sanctioned and vacant posts having fulfilled all the required qualifications for the posts on which they had worked for much more than 10 years in the Council and thereafter they have also been working in the Board continuously. In the said circumstances, it cannot be disputed that petitioners were already regular Class III employees working on vacant and sanctioned posts in the Council for much more than 10 years before their absorption in the Board and their adjustment in the Board has to be in the same position as per the provisions of the Repealing Act of 2007. 22. Accordingly, this writ petition is allowed, the Five-Man Committee report dated 27.08.2012 is quashed only to the extent by which the Committee had not recommended the petitioners for absorption in the Bihar School Examination Board and the respondents, especially respondent no.4, namely the Chairman of the Board is hereby directed to absorb the services of the petitioners against vacant and sanctioned posts of Assistant/Routine Clerk since October, 1994 with all consequential benefits considering the services of the petitioners to be continuous with effect from October, 1994, the date on which the petitioners were appointed against the vacant sanctioned posts in the Council. The petitioners are also held to be entitled for salaries, allowances and other benefits of annual increments, merger of dearness allowance with basic pay, as adopted by the State Government, provident fund, earned leave and casual leave as well as the payment of difference of salary from the respective dates within four months from the date of receipt/production of a copy of this order before respondent no.4.”



13. Against the aforementioned order the Bihar School Examination Board (Senior Secondary) and its Chairman and Secretary filed L.P.A. No. 1560 of 2013. The L.P.A. was allowed and the order passed in C.W.J.C. No. 20210 of 2012 was set aside. However, the Division Bench by its order dated 13th May, 2016 directed the State being a welfare State to consider the case of the writ petitioners- respondents in the light of the Government resolution as noticed above.

14. Learned Senior Advocate on behalf of the petitioners also refers to Annexure-22 by virtue of which 49 member of Group-D employees were regularized by the Bihar School Examination Board. However, the services of the petitioners were directed to be ceased w.e.f. 18th August, 2017. The learned senior counsel on behalf of the petitioners also refers to decision of the Hon'ble Supreme Court in Civil Appeal No. 1868 of 2018 (**Mukesh Kumar & Ors. Vrs. State of Bihar & Ors.**) Delivered by the Hon'ble Supreme Court on 13th February, 2018.

15. Again in C.W.J.C. No. 16423 of 2021, this Court directed the competent authority to re-visit the grievance of the petitioners for the purpose of regularization and pass a speaking order as to whether each of the petitioners fulfills the requisites



conditions stipulated in the aforesaid decision or not. Therefore, it is contended on behalf of the petitioners that the petitioners are entitled to be regularized in the services of the Board.

16. Learned Advocate for the State respondents, on the other hand, submits that under Section 4 of the Bihar Intermediate Education Council (Repeal) Act, 2007, all the assets and liabilities of the Council were vested and transferred in the Bihar School Examination Board. In the year 2007 itself, apart from giving affiliation to secondary/higher secondary schools established by non-governmental organizations as well as conduct of higher secondary level examinations, additional arrangements with regard to acquisition of assets and liabilities of Bihar Intermediate Education Council were also made in Bihar School Examination Board (Amendment) Act 2007 by amending the Bihar School Examination Board Act 1952.

17. He also refers to Section 3 of the Bihar Intermediate Education Council (Repeal) Act 2007 which runs thus:-

“(i) From the date of repeal of the Act, all the employees of the Council shall continue in employment as if the Act had not been repealed and shall continue to be paid the salaries and allowances due to them on the date of repeal of the Act, until the State



Government takes a final decision as per provision made for it.

(ii) The State Government shall constitute a committee consisting of three departmental secretaries to formulate a detailed plan for absorption, retirement, compulsory retirement, voluntary retirement and service conditions of the employees of the Council. The plan prepared by the committee will be placed before the Government within four months from the date of coming into force of the present Act.

Provided that the State Government shall have the right to modify or to suggest modification or amendment of the scheme and thereafter the scheme shall be implemented in such form and with such effect as may be finally approved by the Government. The scheme approved by the Government shall be considered as a statutory scheme made under this Act.

(iii) The scheme shall be implemented after it is approved by the Government and shall be fully implemented in its form and intent within three months from the date of its implementation.”

18. It is contended by the learned Advocate for the respondents that in connection with the absorption of employees



of erstwhile Bihar Intermediate Education Council and for taking necessary action in the proceedings of the meeting of the three-member Secretary level Committee chaired by the Development Commissioner, an action plan was formulated for adjustment/absorption of those employees, on which, after obtaining the approval of the Council of Ministers, a decision had been taken by the State Government vide Memo No. 413, dated 12th July, 2012 of the Education Department, Bihar.

19. In the light of the above resolution a Five Member Committee was formed to identify all such employees of erstwhile Bihar Intermediate Education Council, who have been working on the date of dissolution i.e. 19th April, 2007 and were fulfilling prescribed criteria related to absorption so that they could be absorbed/accommodated on a many vacant posts as possible in Bihar School Examination Board. According to the decision of the Five Member Committee to make adjustment of the services of 379 regular employees of Bihar Intermediate Education Council who fulfill prescribed criteria in terms of Resolution No. 413 dated 12th July, 2012 issued by the Education Department, Government of Bihar. Permission was sought for creation of a total 290 posts from the Director, Secondary Education vide letter dated 28th July, 2012 and out of which Government consented for



creation of total number of 197 posts in which 45 posts of Section Officers were also included. The said posts were created due to retirement/death/promotion etc. of the post holders. In this way, the services of total 379 regular employees of the Council had been approved and adjusted/absorbed on the available vacant posts. So far as adjustment/absorption of service of remaining 248 ad-hoc /daily workers, they were recommended and identified by the Five Member Committee. The State Government vide Memo No. 413, dated 12th July, 2012 held in relation to ad-hoc/daily wages employees:-

“Those employees or workers appointed on ad-hoc basis and having no appointment letter but were getting salary and Dearness Allowance, their service will be dispensed after paying one month’s salary and dearness allowances/remuneration.”

However, the said resolution was not given effect in respect of the ad-hoc employees who had been working in the Board and their remuneration and other facilities were increased time to time.

20. The respondents also submit that in the past also the petitioners had filed C.W.J.C. No. 12847 of 2017 before this Court which was disposed of vide order dated 5th December, 2018 in terms of the judgment passed by the Hon’ble Supreme Court in Special Leave to Appeal (C) No. 35145 of 2016 and pursuant



thereof in the light of the said order, the claim of the petitioners for absorption/regularization in the Board had been considered and rejected by the respondent authorities vide Memo No. 224, dated 30th March, 2019. Therefore, the petitioners cannot get any relief in the bunch of writ petitions.

21. It is on record that the petitioners of C.W.J.C. No. 13882 of 2022, C.W.J.C. No. 15556 of 2022 and C.W.J.C. No. 15559 of 2022 are claiming regularization against 69 vacant reserved posts.

22. The petitioners of C.W.J.C. No. 9697 of 2022 and C.W.J.C. No. 9259 of 2022 were appointed by the competent authority on ad-hoc basis and they have been working since 1995. Though, there was no vacant or sanctioned posts as against the petitioners in respect of the said two writ petitions.

23. It is not in dispute that Section 4 of the Bihar Intermediate Education Council (Repeal) Act, 2007 clearly states that all the assets and properties of Bihar Intermediate Council whether movable or immovable including lands, buildings, vehicles, books, cash balance, reserve fund, investment, furniture and others and all liabilites shall stand transferred to and vested on, and be deemed to have come in the possession of the Bihar School Examination Board. All the liabilities and obligations of



the Council under any agreement or contract entered into bona fide before the commencement of this Act shall devolve and shall be deemed to have been devolved on the Bihar School Examination Board.

24. Thus, it is absolutely clear that the Bihar School Examination Board inherits not only the assets but also the liabilities of the erstwhile Council. It is not in dispute that the erstwhile council mainly manned by ad-hoc and temporary employees. They have been working for long 23 years as Assistant, Routine Clerk in Class-III posts and Peons in Class-IV posts. The respondents did not dispute that after 2007 Act coming into force, the Board, High Level Committee and State Government agreed on principle that the ad-hoc employees would be regularized. With the hope of regularization, the employees went on filing one after another writ petitions. Some of them travelled up to the Hon'ble Supreme Court. As per the order of the Hon'ble Supreme Court passed in Civil Appeal No. 1868 of 2018, the Hon'ble Supreme Court was pleased to direct the State Government to take appropriate decision in the light of the scheme of the Repeal Act, the report of the Three Member Committee constituted under the Act and the resolution taken based on the report. While taking the decision, the Government will also kept



in mind that the appellants have as of now working for around 23 years.

25. On the basis of the said order passed by the Hon'ble Supreme Court, the Education Department, Bihar, Patna passed an order on 9th April, 2018 stating *inter alia* that as the petitioner were not recruited against the sanctioned posts, their prayer cannot be allowed. The petitioners preferred Contempt Petition No. 1285 of 2018 in Civil Appeal No. 1868 of 2018, the Hon'ble Supreme Court passed a direction in the contempt petition directing the respondents to absorb 10 petitioners w.e.f. from the date of the order i.e. 5th October, 2018.

26. Having heard the learned counsels for the petitioners and the respondents and on careful perusal of the entire materials on record, for my convenience, I am quoting hereunder the relevant part of Section 3 of the Bihar Intermediate Education Council (Repeal) Act, 2007:-

“3. Adjustment of employees of the Bihar

Intermediate Education Council.

(1) On and from the date of repeal of the Bihar Intermediate Education Council Act, 1992, all employees of the Council, shall remain, in employment, as if the Act has not been repealed and they shall continue to be paid same salary and allowances as was payable on the date of repeal of the Act till such time State Government has taken such final decision as is provided hereinafter.



(2)The State Government shall constitute a Committee of Secretaries consisting of three Secretaries who shall prepare a detailed scheme of absorption, retirement, compulsory retirement or voluntary retirement, screening appointment and other service conditions of employees of the Council. The scheme prepared by the Committee of Secretaries shall be placed before the Government within four months from the date of enforcement of the present Act:

Provided that it shall be open to the Government to modify, amend or suggest modifications or amendment in the scheme and the scheme thereafter shall be made operational in such form and intent as finally approved by the Government. Scheme approved by the Government shall be considered as statutory scheme framed under this Act.”

27. The Division Bench of this Court ***In Bihar School Examination Board (Senior Secondary Vrs. Anuj Kumar Singh)***, reported in ***2016 AIJEL-PT-1744927***, while dismissing the appeal observed as hereunder:-

“It would not be fair to throw the writ petitioners on road after they have spent 15-20 years in the service. Their services were recognized by the Chairman of the Board and the Government was requested to sanction additional posts for regularization of the petitioners. The Division Bench of this Court held that from the aforesaid communication, it is very clear that the Council though had a very restricted number of sanctioned posts, in fact, to work effectively, to conduct examinations was requiring much larger work force as all the duties and liabilities of the Council has now come and it vested in the Board in relation to Council. The same would be



the case here and, therefore, the necessity of experienced employees like the writ petitioners/respondents. We, at this stage, cannot issue an appropriate direction except directing the State, which is a welfare State, to consider the case of the writ petitioners- respondents in the light of the Government resolution as noticed above. This must be done in true earnest by the State Government at the earliest. The present petitioners have become the pawns in the hands of State Administration and the Board. The Board is saying that without sanction of posts being made by the State Government, it is not possible for the Board to absorb the petitioners.”

28. On the other hand, the State Government is absolutely silent over the matter.

29. It is not in dispute that the petitioners have been working continuously for 23-24 years. Though, they were appointed on ad-hoc basis, their appointment was not back door appointments, they have requisite qualifications for the post of Class-III and Class-IV posts. In C.W.J.C. No. 13882 of 2022 along with other two writ petitions the petitioners have prayed for their absorption against 69 vacant posts in reserve category.

30. In the case of *Secretary, State of Karnataka & Ors. Vs. Uma Devi (3) And Others*, it was held by the Hon’ble Supreme Court that there may be cases where irregular appointments (not illegal appointments) of duly qualified persons



in duly sanctioned vacant posts might have been made and the employees have continued to work for 10 years or more, but without the intervention of orders of the Courts or of Tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by the Supreme Court in the cases affirmed in this Judgment and in the light of this Judgment. In that context, the Union of India, the State Governments and Others Instrumentality should take steps to regularize as a one time measure. The services of such irregularly appointed, who have worked for 10 years or more in duly sanctioned posts, but not under the cover of orders of the Court or the Tribunals. The process must be set in motion within six months from the date of this Judgment. Regularization if any, already made, but not sub-judice, need not be re-opened based on this Judgment, but there should be no further bypasses of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.

31. The decision of *Uma Devi (3)* was passed by the Hon'ble Court in 2006. Repeal Act of 2007 came into force on such date as the State Government may by notification in the official gazette, accords. At the time of promulgation of 2007 Act,



the respondents had the knowledge of the decision passed in *Uma Devi* by the Supreme Court. Even thereafter the State Government agreed in principle to regularize the ad-hoc employees working in the erstwhile Council. But the fact remains that in spite of series of litigations and policy decisions taken by the State Government and administrative authority, the petitioners were not regularized by the respondent authorities on one pretext or the other.

32. I have already recorded that after dissolution of the erstwhile Council by the Repeal Act of 2007, the newly constructed Board accepted all the liabilities of the dissolved Council. They on principle agreed to absorb the petitioners and different Committees were formed as well as the State Government was moved. However, till date no decision is forthcoming. It is the basic theory on administrative law that public authorities cannot play fast and loose with the powers vested in them, and persons to whose detriment orders are made, are entitled to know with exactness and decision, what they are expected to do or for their firm believe and exactly for authority is making the order. The respondent authorities has been sitting tight over the matter and trying to find out one or two paragraphs of the Judgments passed in different Writ Petitions, Appeals and Special Leave to Appeals by this Court and the Hon'ble Supreme Court to



shirk the responsibility and delaying the matter. Where a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and can not be supplemented by a fresh reason in the shape of affidavit or otherwise. The respondents are doing exactly this act to avoid their responsibility regarding absorption.

33. The decision of the Hon'ble Supreme Court, dated 30th January, 2024 in ***Vinod Kumar & Ors. v. Union of India & Ors., Civil Appeal Nos.-..... of 2024, arising out SLP(C) Nos. 22241- 42 of 2016***, is quoted below to come to the conclusion in respect of the issue in hand:-

“4. The appellants have approached this Court arguing that the High Court erred in its judgment by failing to recognize the substantive nature of their duties, which align with regular employment rather than the temporary or scheme-based roles they were originally appointed for. Furthermore, their promotion by a regularly constituted Departmental Promotional Committee, the selection process they underwent, and the continuous nature of their service for over a quarter of a century underscored their argument for regularization and that the High Court has incorrectly applied the



principles from the case of Uma Devi (supra) to their situation.

5. Having heard the arguments of both the sides, this Court believes that the essence of employment and the rights thereof cannot be merely determined by the initial terms of appointment when the actual course of employment has evolved significantly over time. The continuous service of the appellants in the capacities of regular employees, performing duties indistinguishable from those in permanent posts, and their selection through a process that mirrors that of regular recruitment, constitute a substantive departure from the temporary and scheme-specific nature of their initial engagement. Moreover, the appellants' promotion process was conducted and overseen by a Departmental Promotional Committee and their sustained service for more than 25 years without any indication of the temporary nature of their roles being reaffirmed or the duration of such temporary engagement being specified, merits a reconsideration of their employment status.

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. Paragraph 53 of the Uma



Devi (supra) case is reproduced hereunder:

“53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa [(1967) 1 SCR 128 : AIR 1967 SC 1071], R.N. Nanjundappa [(1972) 1 SCC 409 : (1972) 2 SCR 799] and B.N. Nagarajan [(1979) 4 SCC 507 : 1980 SCC (L&S) 4 : (1979) 3 SCR 937] 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.”

8. In light of the reasons recorded above, this Court finds merit in the appellants' arguments and holds that their service conditions, as evolved over time, warrant a reclassification from temporary to regular status. The failure to recognize the substantive nature of their roles and their continuous service akin to permanent employees runs counter to the principles of equity, fairness, and the intent behind employment regulations.”

34. In view of long uninterrupted service rendered by the petitioners in C.W.J.C. No. 13882 of 2022, C.W.J.C. No.



15556 of 2022 and C.W.J.C. No. 15559 of 2022, they are entitled to be absorbed in the reserved sanctioned 69 posts in the Board.

35. The respondent authorities are directed to take necessary action for regularization of the services of the petitioners of above mentioned three writ petition within six weeks from the date of communication of this order.

36. These three writ petitions bearing C.W.J.C. No. 13882 of 2022, C.W.J.C. No. 15556 of 2022 and C.W.J.C. No. 15559 of 2022 are accordingly allowed on contest.

37. I am not in a position to grant the benefit of regularization to the writ petitioners of C.W.J.C. No. 9259 of 2022 and C.W.J.C. No. 9697 of 2022 on the ground that they were not appointed against regular vacancies.

38. Therefore, the two writ petitions bearing C.W.J.C. No. 9259 of 2022 and C.W.J.C. No. 9697 of 2022 are dismissed on contest.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	NAFR
CAV DATE	14.05.2024
Uploading Date	
Transmission Date	

