

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.2939 of 1997 (O&M)
Reserved on: 23.01.2024
Pronounced on: 07.02.2024

State of Haryana and another
.....Appellants
Versus
Saran Lata
.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Ms. Vibha Tewari, AAG, Haryana
for the appellants.

Mr. A.S. Virk, Advocate
for the respondent.

NAMIT KUMAR J.

1. The instant regular second appeal has been preferred by the State of Haryana against the judgment and decree dated 10.06.1997, passed by the learned District Judge, Ambala, whereby the judgment and decree dated 22.08.1994, passed by the learned Sub-Judge Ist Class, Ambala Cantt., dismissing the suit of the plaintiff/respondent herein, has been reversed and it has been held that Saran Lata is entitled to resume her duties and the order passed by defendant No.2 is illegal, void and arbitrary, whereby she was terminated from her services, however, the appellants/defendants shall consider her case for regularization in terms of Instructions issued by the State of Haryana vide Instructions dated 27.05.1993, and on regularization, she shall be entitled to all

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consequential benefits as were given to the regular employees from the date of her services are regularized.

2. The brief facts of the case are that the plaintiff/respondent was appointed as Labourer in the office of defendant No.2/Commissioner Ambala Division, Ambala Cantt. On 01.08.1987 and worked upto 22.03.1991. The services of the plaintiff were dispensed with as the work for which she was engaged on daily wages was over. The said termination was challenged by the plaintiff by filing a suit before the learned Sub-Judge Ist Class, Ambala Cantt, which was dismissed vide judgment and decree dated 22.08.1994, by recording the following findings:-

“Admitted facts of the case are that the plaintiff was appointed as Labourer on daily wages. She worked with defendant no.2 w.e.f. 1.8.1987 to 28.2.91 i.e. about 3½ years. Her services were terminated on 22.3.91 without affording any opportunity of being heard or serving any notice upon her. As per the plaintiff, she is entitled for regularisation of her services with back wages whereas the defendants have denied the same. Admittedly, no appointment letter was ever issued to the plaintiff and as such, the question of any terms and condition of her appointment cannot be determined. Termination order has also not been served upon the plaintiff as according to the defendant, no termination order was required to be served. Shri Sikand, counsel for the plaintiff argued that since the plaintiff has worked for more than three year continuously, therefore, she is entitled for regularisation of her services and her service cannot be terminated illegally and as such, she is entitled to be re-instated with the full back-wages and other benefits. To this effect, he placed reliance upon

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State of Haryana vs. Piara Singh 1992 S.C. page 2130 wherein it has been held that so far as the work..charged employees and casual labour are concerned, the effort must be to regularise as far as possible and as early as possible subject to their fulfilling the qualifications, if any, prescribed for the post and subject also to availability of work. If a casual labourer is continued for a fairly long spell say two or three years-a presumption may arise that there is regular need for his services. In such a situation, it becomes obligatory for the concerned authority to examine the feasibility of his regularisation. While doing so, the authorities ought to adopt a positive approach coupled with an empathy for the person. As has been repeatedly stressed by this court, security of tenure is necessary for an employee to give his best to the job. In this behalf, we do commend the orders of the Government of Haryana (contained in its letter dated 6.4.90 referred to hereinbefore) both in relation to work-charged employees as well as casual labour". It is observed that in the aforesaid case, Government of Haryana had decided to regularise the service of casual and daily wages employees who had completed 10 years of service by Dec, 31st, 1989 and the decision of Haryana Government was up-held by Hon'ble Supreme Court. In the instant case, the plaintiff has put in service only about 3 years and as such, the case of the plaintiff is certainly on different footing. The question of regularisation of her services cannot arise as her service have already been terminated. Since the case of the plaintiff is not governed by the proposition of law laid down in State of Haryana Vs. Piara Singh (Supra), it is held that there is no illegality in dispensing with the service of the plaintiff by the defendants. This issue is accordingly decided against the plaintiff."

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XXXX XXXX XXXX XXXX

ISSUE No.8 (RELIEF):

12. In view of the findings of the above said issues, the suit of the plaintiff fails and is hereby dismissed leaving the parties to bear their own costs. Decree sheet be drawn accordingly and file be consigned to the record room after due compliance.

Announced in open Court
D/22.8.1994

Sd/-
Sub Judge Ist Class,
A/Cantt.”

3. Aggrieved against the said judgment and decree dated 22.08.1994, the plaintiff filed an appeal before the learned District Judge, Ambala, which has been allowed vide judgment dated 10.06.1997 and the judgment and decree dated 22.08.1994, passed by the learned Sub-Judge Ist Class, Ambala, has been reversed by recording the following findings:

“9. In the instant case, it is admitted case of the parties that the appellant served with the respondents Department for more than three years without any break and with a hard work and good conduct and it certainly is a long spell. Ex.PW/2-A clearly shows that the entire service rendered by the appellant with the defendant respondents Department was quite satisfactory. It is the case of the appellant from the very beginning that there were vacancy for regular post lying with the Department and simple denial of the fact by the respondents amounts to an admission, therefore, in this situation it cannot be said at all that the act of the defendant-respondent no.2 terminating the services of the appellant was legal, as has been laid in the authorities Lakhwinder Singh Ors V. Guru

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Nanak Devi University & anr. (Supra) and Ram Dhari, Keeper Mini Zoo V. The Chief Wild Life Warden, Haryana & anr. (Supra) and both the authorities as relied upon by Ld. Counsel for the appellant are fully applicable in the instant case.

10. In view of my discussions above, the finding of the learned trial court on Issues No.1 and 2 are reversed and it is held that the appellant is entitled to resume her duties and the order passed by the respondent- defendant no.2 is illegal, void and arbitrary, whereby the appellant was terminated from her services. However the respondents shall consider the case of the appellant for regularisation in terms of instructions issued by the State of Haryana vide instructions issued on 27.5.1993 and on regularisation, the appellant shall be entitled to all the consequential benefits, as were given to the regular employees from the date her services are regularize.

11. No other point has been urged before me in this appeal.

12. In view of my discussions above, the appeal of the appellant succeeds and the same is hereby accepted with costs throughout. The lower court file be sent back and the appeal file be consigned to records.

*Announced in Open Court
10.6.1997.*

*Sd/-
District Judge, Ambala.”*

4. Learned State counsel appearing for the appellants has argued that since the respondent was appointed on daily wage basis on 01.08.1987 and she worked upto 28.02.1991 i.e. for a period of about 3½ years and the work, for which she was appointed was over, therefore, her services were dispensed with. She has further submitted

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that the temporary appointment does not confer any right of permanence and therefore, the action of the appellant/defendant in dispensing with the services of the respondent is perfectly legal and valid and keeping in view these facts, the suit of the plaintiff was dismissed by the learned trial Court, however, the said finding has been reversed by the learned Lower Appellate Court without considering the fact that daily wage employee cannot seek any permanency in the establishment. She has placed reliance upon the judgments of the Hon'ble Supreme Court in ***“Indian Drugs & Pharmaceuticals Limited vs Workmen, Indian Drugs & Pharmaceuticals Limited”***, passed in Civil Appeal No.4996 of 2006 (arising out of Special Leave Petition (Civil) No.3862 of 2006), decided on 16.11.2006, and ***“Union of India and others vs Ilmo Devi and another”***, 2021(4) SCT 312.

5. On the other hand, learned counsel for the respondent has argued that while dispensing with the services of the respondent, no notice was issued to her and therefore, the action of the defendants in dispensing with the services of the respondent was totally illegal and arbitrary and her suit has rightly been decreed by the learned Lower Appellate Court and the same is liable to be upheld by this Court.

6. I have heard learned counsel for both the parties and perused the case file with their able assistance.

7. Before proceeding further, it is apt to mention here that the plaintiff filed a suit for declaration to the effect that order of dismissal from service as Labourer from the office of defendant No.2 is illegal, arbitrary, unconstitutional and void against the rights of the plaintiff and

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plaintiff is entitled to continue in service with consequential relief of mandatory injunction directing the defendants to allow her to resume the duties and also continuity of service, back wages, seniority, etc. and in the prayer clause, it was submitted as under:-

“It is, therefore respectfully, prayed that a decree of declaration to the effect that the order of the termination passed by the defendant no.2 by which terminating the services of the plaintiff is illegal, arbitrary and without jurisdiction and is void and not binding upon the plaintiff; with the consequential relief of mandatory injunction directing the defendant no.2 to allow her resume the duties and also the plaintiff is entitled of the backwages and other incidental relief be passed in favour of plaintiff and against the defendants with the cost of the suit or any other relief, which this Hon’ble court may deems fit.

*Sd/-.... Plaintiff.
Saran Lata.”*

8. However, a perusal of the judgment of the learned Lower Appellate Court shows that apart from setting-aside the order of termination, even the directions have been issued to regularize the services of the plaintiff, the said relief granted by the Court is beyond the pleadings and the relief claimed in the suit and the said findings cannot be sustained in the eyes of law. The Hon’ble Supreme Court in **“Bachhaj Nahar vs Nilima Mandal and another”, 2009(1) RCR (Civil) 855**, has held that the relief cannot be granted beyond the pleadings. The relevant portion of the said judgment, reads as under:-

“16. The observation of the High Court that when a plaintiff sets forth the facts and makes a prayer for a

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particular relief in the suit, he is merely suggesting what the relief should be, and that it is for the court, as a matter of law, to decide upon the relief that should be granted, is not sound. Such an observation may be appropriate with reference to a writ proceeding. It may even be appropriate in a civil suit while proposing to grant as relief, a lesser or smaller version of what is claimed. But the said observation is misconceived if it is meant to hold that a civil court may grant any relief it deems fit, ignoring the prayer. It is fundamental that in a civil suit, relief to be granted can be only with reference to the prayers made in the pleadings. That apart, in civil suits, grant of relief is circumscribed by various factors like court fee, limitation, parties to the suits, as also grounds barring relief, like res judicata, estoppel, acquiescence, non-joinder of causes of action or parties etc., which require pleading and proof. Therefore, it would be hazardous to hold that in a civil suit whatever be the relief that is prayed, the court can on examination of facts grant any relief as it thinks fit. In a suit for recovery of Rs. one lakh, the court cannot grant a decree for Rs. Ten lakhs. In a suit for recovery possession of property 'A', court cannot grant possession of property 'B'. In a suit praying for permanent injunction, court grant a relief of declaration or possession. The jurisdiction to grant relief in a civil suit necessarily depends on the pleadings, prayer, court fee paid, evidence let in, etc.

9. The Hon'ble Supreme Court in Indian drugs & Pharmaceuticals Limited's case (supra) has held that a daily rated or casual worker is only a temporary employee and has no right to continue in service. The operative part of the said judgment is reproduced as under:-

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*“13. It may be mentioned that a daily rated or casual worker is only a temporary employee, and it is well settled that a temporary employee has no right to the post vide **State of Uttar Pradesh & Anr. v. Kaushal Kishore Shukla, 1991(1) SCT 760 (SC) : 1991(1) SCC 691**. The term 'temporary employee' is a general category which has under it several sub-categories e.g. casual employee, daily rated employee, ad hoc employee, etc.*

14. The distinction between a temporary employee and a permanent employee is well settled. Whereas a permanent employee has a right to the post, a temporary employee has no right to the post. It is only a permanent employee who has a right to continue in service till the age of superannuation (unless he is dismissed or removed after an inquiry, or his service is terminated due to some other valid reason earlier). As regards a temporary employee, there is no age of superannuation because he has no right to the post at all. Hence, it follows that no direction can be passed in the case of any temporary employee that he should be continued till the age of superannuation.

*15. Similarly, no direction can be given that a daily wage employee should be paid salary of a regular employee vide **State of Haryana v. Tilak Raj, 2003(4) SCT 485 (SC) : 2003(6) SCC 123**.*

16. We are afraid that the Labour Court and High Court have passed their orders on the basis of emotions and sympathies, but cases in Court have to be decided on legal principles and not on the basis of emotions and sympathies.

17. Admittedly, the employees in question in Court had not been appointed by following the regular procedure, and instead they had been appointed only due to the pressure and agitation of the union and on

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*compassionate ground. There were not even vacancies on which they could be appointed. As held in **A. Umarani v. Registrar, Cooperative Societies & Ors., 2004(4) SCT 728 (SC) : 2004(7) SCC 112**, such employees cannot be regularised as regularisation is not a mode of recruitment. In Umarani's case the Supreme Court observed that the compassionate appointment of a woman whose husband deserted her would be illegal in view of the absence of any scheme providing for such appointment of deserted women.*

*18. In **State of M.P. and others v. Yogesh Chandra Dubey and others, 2006(4) SCT 265 (SC) : 2006(8) SCC 67**, this Court held that a post must be created and/or sanctioned before filling it up. If an employee is not appointed against a sanctioned post he is not entitled to any scale of pay. In our opinion, the ratio of the aforesaid decision squarely applies to the facts of the present case also.*

*19. In **M/s. Indian Drugs and Pharmaceuticals Ltd. v. Devki Devi & Ors., 2006(3) SCT 478 (SC) : AIR 2006 Supreme Court 2691**, which is a case relating to the appellant's Rishikesh unit, it has been held in paragraph 10 that "The undisputed position is that appellant company does not have any rule for compassionate appointment". In that decision it has also been noted that the appellant is a sick company which is before the BIFR and the bleak financial position of the company has been considered by this Court in **Officers & Supervisors of IDPL v. Chairman & M.D., IDPL and Ors., 2003(3) SCT 1020 (SC) : 2003(6) SCC 490**. Originally more than 6500 employees were employed by the appellant but out of them 6171 have taken retirement and only 421 employees are now working throughout the country. The appellant company is not functional and is trying to further reduce the number of*

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employees. In paragraph 15 of the said judgment it has also been noted that no production is going on in the company since 1994. These facts have been completely lost sight of by the Labour Court and the High Court.

Thus, it appears that in the present case the appellant is trying to reagitate the issues which have been already decided by this Court in **M/s. Indian Drugs and Pharmaceuticals Ltd. v. Devki Devi & Ors., AIR 2006 Supreme Court 2691.**

20. In a recent Constitution Bench decision of this Court in **Secretary, State of Karnataka and others v. Umadevi & others, 2006(2) SCT 462 (SC) : 2006(4) SCC 1**, this Court has exhaustively dealt with a matter similar to that under consideration in the present case, and we may refer to some of the observations made therein.

In paragraphs 4 and 5 of the said judgment, the Constitution Bench of this Court observed :

"The Union, the States, their departments and instrumentalities have resorted to irregular appoints, especially in the lower rungs of the service, without reference to the duty to ensure a proper appointment procedure through the Public Service Commissions or otherwise as per the rules adopted and to permit these irregular appointees or those appointed on contract or on daily wages, to continue year after year, thus, keeping out those who are qualified to apply for the post concerned and depriving them of an opportunity to compete for the post. It has also led to persons who get employed, without the following of a regular procedure or even through the backdoor or on daily wages, approaching the courts, seeking directions to make them permanent in their posts and to prevent regular recruitment to the posts concerned. The courts have not always kept the legal aspects in mind and have occasionally even stayed the regular process of employment being set in motion and in some cases, even directed that these illegal, irregular or improper entrants be absorbed into service. A class of employment which can only be called "litigious employment", has risen like a

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phoenix seriously impairing the constitutional scheme. Such orders are passed apparently in exercise of the wide powers under Article 226 of the Constitution. Whether the wide powers under Article 226 of the Constitution are intended to be used for a purpose certain to defeat the concept of social justice and equal opportunity for all, subject to affirmative action in the matter of public employment as recognised by our Constitution, has to be seriously pondered over. It is time, that the courts desist from issuing orders preventing regular selection or recruitment at the instance of such persons and from issuing directions for continuance of those who have not secured regular appointments as per procedure established. The passing of orders for continuance tends to defeat the very constitutional scheme of public employment. It has to be emphasised that this is not the role envisaged for the High Courts in the scheme of things and their wide powers under Article 226 of the Constitution are not intended to be used for the purpose of perpetuating illegalities, irregularities or improprieties or for scuttling the whole scheme of public employment. Its role as the sentinel and as the guardian of equal rights protection should not be forgotten.

This Court has also on occasions issued directions which could not be said to be consistent with the constitutional scheme of public employment. Such directions are issued presumably on the basis of equitable considerations or individualization of justice. The question arises, equity to whom ? Equity for the handful of people who have approached the court with a claim, or equity for the teeming millions of this country seeking employment and seeking a fair opportunity for competing for employment ? When one side of the coin is considered, the other side of the coin has also to be considered and the way open to any court of law or justice, is to adhere to the law as laid down by the Constitution and not the make directions, which at times, even if do not run counter to the constitutional scheme, certainly tend to water down the constitutional requirements. It is this conflict that is reflected in these cases referred to the Constitution Bench".

We have underlined the observations made above to emphasise that the Court cannot direct continuation in

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service of a non-regular appointee. The High Court's direction is hence contrary to the said decision.

Thereafter in paragraph 33 it was observed :

"It is not necessary to notice all the decisions of this Court on this aspect. By and large what emerges is that regular recruitment should be insisted upon, only in a contingency can an ad hoc appointment be made in a permanent vacancy, but the same should soon be followed by a regular recruitment and that appointments to non-available posts should not be taken note of for regularization. The cases directing regularisation have mainly proceeded on the basis that having permitted the employee to work for some period, he should be absorbed, without really laying down any law to that effect, after discussing the constitutional scheme for public employment".

31. The underlined observation in the above passage makes it clear that even if an ad hoc or casual appointment is made in some contingency the same should not be continued for long, as was done in the present case.

In paragraph 43, the Court observed :

"Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment,

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he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. The High Courts acting under Article 226 of the Constitution, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme".

The underlined observations above clearly indicate that the casual, daily rated, or ad hoc employees, like the respondents in the present appeal, have no right to be continued in service, far less of being regularised and get regular pay.

In paragraph 45 this Court observed :

"While directing that appointments, temporary or casual, be regularised or made permanent, the courts are swayed by the fact that the person concerned has worked for some time and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with open eyes. It may be true that he is not in a position to bargain - not at arm's length - since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible. If the court were to void a contractual employment of this nature on the ground that the parties were not having equal bargaining power, that too would not enable the court to grant any relief to that employee. A total embargo on such casual or temporary employment is not possible, given the exigencies of administration and if imposed, would only mean that some people who at least get employment temporarily,

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contractually or casually, would not be getting even that employment when securing of such employment brings at least some succour to them. After all, innumerable citizens of our vast country are in search of employment and one is not compelled to accept a casual or temporary employment if one is not inclined to go in for such an employment. It is in that context that one has to proceed on the basis that the employment was accepted fully knowing the nature of it and the consequences flowing from it. In other words, even while accepting the employment, the person concerned knows the nature of his employment. It is not an appointment to a post in the real sense of the term. The claim acquired by him in the post in which he is temporarily employed or the interest in that post cannot be considered to be of such magnitude as to enable the giving up of the procedure established, for making regular appointments to available posts in the services of the State. The argument that since one has been working for some time in the post, it will not be just to discontinue him, even though he was aware of the nature of the employment when he first took it up, is not (sic) one that would enable the jettisoning of the procedure established by law for public employment and would have to fail when tested on the touchstone of constitutionality and equality of opportunity enshrined in Article 14 of the Constitution".

The underlined part of the above passage clearly negates the claim of the respondents."

10. Further reference may be made to the judgment of the Hon'ble Supreme Court passed in "***Secretary, State of Karnataka and others Vs. Umadevi and others***", 2006(2) S.C.T. 462. The relevant portion from the said judgment is as under:-

"34.Merely because, an employee had continued under cover of an order of Court, which we have described as 'litigious employment' in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the

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employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates.

35 to 37. XXXX XXXX XXXX

38. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post.”

11. The Hon’ble Supreme Court in **“Union of India and others vs Ilmo Devi & another, 2021 (4) SCT 312**, has held as under:-

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“8.6 In the case of Daya Lal & Ors. (supra) in paragraph 12, it is observed and held as under:-

"12. We may at the outset refer to the following well-settled principles relating to regularisation and parity in pay, relevant in the context of these appeals:

(i) The High Courts, in exercising power under Article 226 of the Constitution will not issue directions for regularisation, absorption or permanent continuance, unless the employees claiming regularisation had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant posts. The equality clause contained in Articles 14 and 16 should be scrupulously followed and Courts should not issue a direction for regularisation of services of an employee which would be violative of the constitutional scheme. While something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularised, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularised.

(ii) Mere continuation of service by a temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be "litigious employment". Even temporary, ad hoc or daily-wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularisation, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularisation in the absence of a legal right.

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(iii) *Even where a scheme is formulated for regularisation with a cut-off date (that is a scheme providing that persons who had put in a specified number of years of service and continuing in employment as on the cut-off date), it is not possible to others who were appointed subsequent to the cut-off date, to claim or contend that the scheme should be applied to them by extending the cut-off date or seek a direction for framing of fresh schemes providing for successive cut-off dates.*

(iv) *Part-time employees are not entitled to seek regularisation as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularisation or permanent continuance of part-time temporary employees.*

(v) *Part-time temporary employees in government-run institutions cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. The right to claim a particular salary against the State must arise under a contract or under a statute.*

[See State of Karnataka v. Umadevi (3) [(2006) 4 SCC 1], M. Raja v. CEERI Educational Society [(2006) 12 SCC 636], S.C. Chandra v. State of Jharkhand [(2007) 8 SCC 279], Kurukshetra Central Coop. Bank Ltd. v. Mehar Chand [(2007) 15 SCC 680] and Official Liquidator v. Dayanand [(2008) 10 SCC 1].”

12. It is clear that the respondent was engaged as daily wage labourer without following the procedure established under law for making appointment to public post. The same was not in conformity with the provisions of Article 14 and 16 of the Constitution of India and the services of the respondent were dispensed with as the work for

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which she was engaged was over, therefore, in this view of the matter, no right has accrued in favour of the respondent to continue in service and thus applying the abovesaid principles laid down by the Hon’ble Supreme Court, the judgment dated 10.06.1997 passed by the learned Lower Appellate Court is hereby set-aside and the judgment dated 22.08.1994, passed by the learned Sub-Judge Ist Class, Ambala Cantt., is restored.

13. Accordingly, the present appeal is allowed in the aforesaid terms.

07.02.2024
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(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No