

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3116 of 2025

1. Sarika Kumari Daughter of Mahendra Prasad Thakur, Resident of Mohalla-Gannipur, Kalam Bagh Chowk, Post- Head Post Office, P.S. Kajimohammadpur, District- Muzaffarpur, presently working as an Assistant /3rd Grade on daily wages basis in Langat Singh College, Muzaffarpur.
2. Shashi Shekhar Son of Arendra Nath Ray, Resident of Village- Gangaya Urf Parmanandpur, P.O. Parmanandpur, District- Muzaffarpur, presently working as a Peon/4th Grade on daily wages basis in Langat Singh College, Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Director Higher Education, Education Department, Government of Bihar, Patna.
4. Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur through the Registrar.
5. The Vice Chancellor, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.
6. The Registrar, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.
7. The Finance Officer, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.
8. The Principal, Langat Singh College, Muzaffarpur, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Advocate Mr. Abhinav Shandilya, Advocate
For the State	:	Mr. Sheo Shankar Prasad, S C- (8)
For the B.R.A.U.	:	Mr. Bindhyachal Rai, Advocate Mr. Sunil Kumar Karn, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 27-02-2025

Heard Mr. Vijay Kumar Singh, learned counsel
appearing on behalf of the petitioners; Mr. Bindhyachal Rai,
learned counsel appearing on behalf of the University and Mr.



Sheo Shankar Prasad, learned SC-8 for the State.

2. Petitioners have, *inter alia*, prayed for following reliefs in the paragraph No.1 of the writ petition:-

"(I) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities to regularize the services of the petitioner no. 1 as Assistant/ 3rd Grade employee and petitioner no. 2 as Peon 4th Grade employee in Langat Singh College, Muzaffarpur (hereinafter referred to as the College) on the ground that the petitioners were appointed after following the due process of selection as third grade and fourth grade employees against the sanctioned and vacant post but on contractual basis and they are working as such sine last 12 years continuously as also the services of similarly situated persons have already been regularized by the Respondent University ignoring the better claim of the petitioners.

(II) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent University to grant consequential benefit of service counting the services of the petitioners from the date of their initial appointment.

(III) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent University to allow the salary for "same work same pay" monthly salary of Rs.26,069/- per month to the petitioner no.1 and Rs.23,580/- to the petitioner no. 2 on the basis of minimum basic pay of 7th pay-scale with admissible D.A. with effect from 10.03.2022 pursuant to the office order contained in memo no.B/1222 dated 18.07.2022 issued under the signature of the Respondent no.6.

(IV) For issuance of any other appropriate writ /writs, order / orders direction / directions for which the writ petitioners would be entitled under the facts and circumstances of the case."

3. Learned counsel appearing on behalf of the petitioners submitted that petitioners have filed their detailed individual representations before the Vice-Chancellor of the



B.R.A. Bihar University for regularization of their services on 21.12.2023 and 21.05.2024, however, no action has been taken till date on the said representations.

4. Considering the relief sought for in the present writ petition, as well as, submission made on behalf of the petitioners, I find it proper to direct the Vice-Chancellor of the B.R.A. Bihar University to verify, as to whether, the petitioners were engaged/appointed on the sanctioned vacant post and, thereafter, take necessary steps and consider the representations of the petitioners in light of the recent law laid down by the Hon'ble Supreme Court in the case of **Jaggo Vs. Union of India & Ors. (SLP (C) No. 5580 of 2024)**, wherein the Apex Court relying on its judgment passed in **Vinod Kumar and Ors. Etc. Vs. Union of India & Ors.**, reported in **(2024) 1 S.C.R. 1230** has made following observations in Paragraph Nos. 20, 21, 22, 23, 25 and 27, which are reproduced hereinafter:

“20. It is well established that the decision in Uma Devi (supra) does not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment sought to prevent backdoor entries and illegal appointments that circumvent constitutional requirements. However, where appointments were not illegal but possibly “irregular,” and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a scenario demanding fair regularization. In a recent



judgement of this Court in Vinod Kumar and Ors. Etc. Vs. Union of India & Ors.[2024] 1 S.C.R. 1230, it was held that procedural formalities cannot be used to deny regularization of service to an employee whose appointment was termed "temporary" but has performed the same duties as performed by the regular employee over a considerable period in the capacity of the regular employee. The relevant paras of this judgment have been reproduced below:

“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 judgement 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...”

21. The High Court placed undue emphasis on the initial label of the appellants’ engagements and the outsourcing decision taken after their dismissal. Courts must look beyond the surface labels and consider the realities of employment: continuous, long-term service, indispensable duties, and absence of any mala fide or illegalities in their appointments. In that light, refusing regularization simply because their original terms did not explicitly state so, or because an outsourcing policy was belatedly introduced, would be contrary to principles of fairness and equity.

22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour



standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.

23. The International Labour Organization (ILO), of which India is a founding member, has consistently advocated for employment stability and the fair treatment of workers. The ILO's Multinational Enterprises Declaration encourages companies to provide stable employment and to observe obligations concerning employment stability and social security. It emphasizes that enterprises should assume a leading role in promoting employment security, particularly in contexts where job discontinuation could exacerbate long-term unemployment.

25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

- **Misuse of "Temporary" Labels:** Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labeled as "temporary" or "contractual", even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.*
- **Arbitrary Termination:** Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.*
- **Lack of Career Progression:** Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.*
- **Using Outsourcing as a Shield:** Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also*



demonstrates a deliberate effort to bypass the obligation to offer regular employment.

• **Denial of Basic Rights and Benefits:** *Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.*

27. *In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country."*

5. Further the Hon'ble Supreme Court has recently reiterated the same in the case of ***Shripal & Anr. vs. Nagar Nigam, Ghaziabad (Civil Appeal Nos. 8158-8179 of 2024)***, wherein in paragraphs no. 14 and 15, the Apex Court has held as follows:

"14. The Respondent Employer places reliance on Umadevi (supra) to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, Uma Devi itself distinguishes between appointments that are "illegal" and those that are "irregular," the latter being eligible for regularization if they meet certain conditions. More importantly, Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate



recruitment. Given the record which shows no true contractor-based arrangement and a consistent need for permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices.

15. It is manifest that the Appellant Workmen continuously rendered their services over several years, sometimes spanning more than a decade. Even if certain muster rolls were not produced in full, the Employer’s failure to furnish such records—despite directions to do so—allows an adverse inference under well-established labour jurisprudence. Indian labour law strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature. Morally and legally, workers who fulfil ongoing municipal requirements year after year cannot be dismissed summarily as dispensable, particularly in the absence of a genuine contractor agreement. At this juncture, it would be appropriate to recall the broader critique of indefinite“temporary” employment practices as done by a recent judgement of this court in Jaggo v. Union of India."

6. With the above observation/direction, the present writ petition stands disposed of.

7. There shall be no order as to cost.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	04.03.2025
Transmission Date	N/A

