

06.08.2025.

**14
Ct.No.7.
as**

WPA 14480 of 2021

**Md. Mahiuddin
Vs.
The State of West Bengal & Ors.**

Mr. S. P. Lahiri,
Md. Habibur Rahman.
...for the Petitioner.
Mr. Susanta Pal,
Mr. Prabir Kr. Ray.
...for the State.

1. The petitioner and the Department of Panchayats are embroiled in protracted litigation concerning the regularization of the petitioner's appointment to the post of Gram Panchayat Karmee in Sahapur-II Gram Panchayat (for short, the Gram Panchayat), under Goalpukur-II Development Block, District – Uttar Dinajpur.
2. The genesis of the dispute, which has culminated in the present long-drawn litigation, dates back to 17.09.2007, when the petitioner was engaged as a Gram Panchayat Karmee in Sahapur-II Gram Panchayat pursuant to a resolution adopted by the Gram Panchayat on 06.11.2006. Since then, the petitioner has been continuously discharging his duties and rendering services.
3. In this fifth round of litigation, the petitioner has renewed his prayer for regularization of his appointment to the post and for the release of all consequential service-related benefits in his favour.
4. To trace the background leading to the present writ petition, it appears from the records that, in the first round of

litigation, the issue was remitted to the District Panchayat & Rural Development Officer by a Co-ordinate Bench of this Court, by an order dated 20.09.2013 passed in W.P. No. 15264(W) of 2013.

5. In the third round of litigation, the matter was referred to the Commissioner, Department of Panchayats & Rural Development, who, by an order dated 04.09.2019, observed that the petitioner had been appointed by the Pradhan without prior approval of the Government. Noting that he was not the appropriate authority to decide the issue, the Commissioner referred the matter to the Joint Secretary of the Department for further consideration.

6. In the fourth round of litigation, the matter was once again referred to the concerned respondent. By this time, the Special Secretary, in an order dated 09.03.2021, noted that the petitioner had been engaged against a sanctioned post. However, he expressed his inability to extend the benefits under Finance Department Memo No. 9008-F(P) dated 16.09.2011, which provides for regularization of casual workers appointed before 01.04.2010 who have completed 20 years of service with at least 240 days rendered each year, citing that he lacked authority to grant such benefits.

7. The litigation and its complexity were exacerbated by the respondents taking contradictory stands on the issue of whether the petitioner was engaged against a sanctioned post. The Pradhan, in his communication dated 11th November 2011, inserting a table therein, clarified that the petitioner had been engaged against a sanctioned post. Similarly, the Block

Development Officer, Goalpokher-II Development Block, in his communication dated 12th February 2024 addressed to the District Panchayat & Rural Development Officer, also confirmed that the petitioner was engaged against a sanctioned post.

8. However, subsequently, the Special Secretary, in an order communicated to the petitioner under memo dated 9th March 2021, observed that “apparently it is observed from the available documents that the petitioner was engaged against a sanctioned post.” Nevertheless, he ultimately concluded that he was not the competent authority to grant the petitioner’s prayer for financial and other service-related benefits, and accordingly, referred the matter to the Finance Department for a final decision.

9. Subsequently, in a communication dated 7th October 2021 addressed to the Additional District Magistrate (Panchayat), Uttar Dinajpur, the Special Secretary stated that the petitioner had neither been engaged against a sanctioned post nor had any sanction or approval been issued by the Block Development Officer, Goalpokher-II Block, in respect of such appointment. Accordingly, it was concluded that the petitioner does not fulfil the eligibility criteria under Finance Department Memorandum No. 9008-F(P) dated 16th September 2011, and his prayer for regularization was regretted.

10. Taking note of these contradictory stands and considering the course of the proceedings as well as the nature of the dispute, which remains unresolved, this Court, by an

order dated 10th July 2017 passed in the present writ petition, directed respondent no. 5 to file a report in the form of an affidavit. The affidavit was to disclose the staff pattern of the concerned Gram Panchayat as it existed in 2007, when the petitioner claims to have been engaged, along with the particulars of the employees who were serving in the said Panchayat at the relevant point of time.

11. Pursuant thereto, a report in the form of an affidavit has been filed by respondent no. 5 through Mr. Pal, learned Advocate appearing for the State, before this Court today. Paragraph 3 of the report contains a table indicating that at the relevant point of time, that is, in 2007 when the petitioner claims to have been engaged, there were two sanctioned posts of Gram Panchayat Karmee, both of which were lying vacant.

12. Mr. Lahiri, learned Advocate appearing for the petitioner, submits that the report itself confirms the existence of two sanctioned posts of Gram Panchayat Karmee in 2007, against one of which the petitioner was engaged. He further submits that the petitioner has rendered unblemished service for the past 18 years and is presently receiving a meager monthly remuneration of Rs. 4,500/-. Relying on the decision in *Jaggo vs. Union of India & Ors.* (2024 SCC OnLine SC 3826), he contends that, applying the principles laid down in the decision of *Jaggo*(supra), a direction be given for regularization of the petitioner's service along with the release of all consequential service-related benefits.

13. Mr. Pal, learned Advocate appearing for the State, opposes the petitioner's prayer for regularization on two

grounds. First, he submits that the petitioner has failed to produce any letter of engagement and was engaged solely on the basis of a resolution adopted by the concerned Gram Panchayat. He contends that such engagement amounts to nothing more than a private arrangement between the petitioner and the Gram Panchayat, without any legal sanctity. Secondly, he submits that the petitioner's appointment was never approved by the Block Development Officer or any other competent authority, and therefore, cannot be treated as lawful. According to Mr. Pal, the petitioner's claim for regularization is untenable, particularly in the absence of any selection procedure having been followed. In support of his submissions, he relies on the decision of the Hon'ble Supreme Court in *Secretary, State of Karnataka vs. Uma Devi* [(2006) 4 SCC 1].

14. Therefore, from the submissions advanced by the respective parties and the documents on record, it is evident that the petitioner was engaged on 17.09.2007 as a Gram Panchayat Karmee in Sahapur-II Gram Panchayat pursuant to a resolution adopted by the Panchayat in its meeting held on 26th March 2007. On that date, two sanctioned posts of Gram Panchayat Karmee were vacant, and accordingly, the petitioner was engaged against one of those sanctioned vacant posts. As noted earlier, there was previously some lack of clarity within the Department of Panchayat regarding whether the petitioner's engagement was against a sanctioned post. That question is now resolved that the petitioner was indeed engaged against a sanctioned post in 2007, based on the

resolution adopted by the concerned Gram Panchayat on 26th March 2007.

15. Thus, the stand taken by the Prodhan and the Block Development Officer was justified. However, to avoid the consequences of regularizing the petitioner's appointment, the State, through its Special Secretary and other officials, subsequently adopted a contrary position. The petitioner's service is essential to the functioning of the concerned Gram Panchayat, and his role is of a perennial nature. As noted earlier, the petitioner has been continuously rendering his services for the past 18 years.

16. In the judgment of *Jaggo* (supra), the Hon'ble Apex Court ruled that the decision in *Uma Devi* (supra) does not intend to penalize employees who have rendered long years of service. In the decision of *Jaggo* (supra), it was observed that '...the judgment in *Uma Devi* (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between "illegal" and "irregular" appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure.'

17. In the decision, reported at 2025 INSC 144 (*Shripal & Anr. vs. Nagar Nigam, Ghaziabad*), the Hon'ble Supreme Court observed that that the judgment in *Uma Devi* (supra)

cannot be used as a shield to justify exploitative contractual engagements that continue for years without the employer initiating a legitimate recruitment process. This view has been reaffirmed in the subsequent decision, reported at (2024) 9 SCC 327 (Vinod Kumar & Ors. Etc. vs. Union of India & Ors.).

18. A concerning trend has emerged wherein Government institutions, in an apparent attempt to evade liabilities relating to pension and promotional benefits, are increasingly resorting to contractual, part time, outsourcing service, or project-based appointments, even though the duties assigned to such employees are perennial in nature. Many of these individuals have rendered uninterrupted service for well over a decade. Support for this view cannot be obtained from the decisions in *Jaggo* (supra), *Shripal & Anr.* (supra), and *Vinod Kumar & Ors. etc.* (supra).

19. In the case of *Jaggo* (supra), the Hon'ble Supreme Court, taking note of the fact that the initial engagements of the appellants had been labelled as 'contractual', observed that they had been rendering daily and continuous service over an extensive period spanning decades. The Court further noted that the nature of their duties was fundamental to the functioning of the offices and closely resembled responsibilities typically associated with sanctioned posts. In light of these factors, the Court directed the regularisation of their services. It was further observed that the High Court had placed undue emphasis on the initial nature of the appellants' engagement, overlooking the substantive character of their long-standing service.

20. Therefore, the *Uma Devi* judgment cannot be used as a shield by the employer, or by institutions run by the State or its functionaries or undertakings, to exploit labour for years by labeling their initial engagement as temporary, contractual, casual, or even under schemes. Acknowledging this position, where the services of workers are being utilized for years, the Hon'ble Supreme Court in *Jaggo* (supra) held that undue emphasis should not be placed solely on the nature of the initial engagement. If it is found that a person has been rendering continuous and unblemished service, and their role is fundamental and integral to the functioning of the institution, then it would be prudent to direct regularization of such an employee's service.

21. Therefore, irrespective of the nature of the petitioner's initial engagement, as it appears that the petitioner was engaged against a sanctioned post and has been rendering unblemished service for the past 18 years, and his services are integral to the functioning of the concerned Gram Panchayat, I am of the view that the petitioner's claim for regularization is justified, applying the precedents set in the judgments of *Jaggo* (supra), *Vinod Kumar* (supra), and *Shib Pal* (supra).

22. As noted previously, in the present case, the issue was referred to the concerned respondents on repeated occasions; however, raising one after another plea, the respondents remained steadfast to its decision.

23. In a decision, reported at (2004) 8 SCC 683 (E.T. Sunup vs. C.A. N.S.S. Employees Assn.), the Hon'ble Apex Court lamented that it has become a tendency with the

government officers to somehow or the other circumvent the orders of Court and try to take recourse to one justification and other. This shows complete lack of grace in accepting the orders of the Court. This tendency cannot be countenanced. In a democracy, the role of the Court cannot be subservient to administrative fiat. The executive and the legislature have to work within the constitutional framework and the judiciary has been given the role of watchdog to keep the legislature and executive within check.

24. Therefore, based on the decisions and reasons set out in the preceding paragraph and applying the precedents set in the decisions cited hereinabove, the writ petition is disposed of by directing the respondents to regularize the petitioner's appointment to the post of Gram Panchayat Karmee with effect from 17th September 2007. The petitioner's salary shall be notionally re-fixed from that date, and he shall be paid regular salary with effect from 1st October 2025. All service-related benefits shall be granted in his favour accordingly.

25. If issuance of a formal letter of appointment is necessary to implement this order in its letter and spirit, the respondents shall issue such a letter to avoid any future complications. This entire process shall be completed within eight weeks from the date of receipt of a copy of this order.

26. With this observation, the writ petition is disposed of, however, without any order as to costs.

(Partha Sarathi Chatterjee, J.)

