**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11077 OF 2023

Osmanabad District Central Co Operative Bank And Another
VERSUS
Dhondiram Khandu Warde
...
Advocate for the Petitioners : Mr. Kedar Ganesh L
Advocate for Respondent : Mr. Girish N. Kulkarni (Mardikar)

**WITH
WRIT PETITION NO. 11086 OF 2023 WITH
WRIT PETITION NO. 11078 OF 2023 WITH
WRIT PETITION NO. 11082 OF 2023 WITH
WRIT PETITION NO. 11089 OF 2023 WITH
WRIT PETITION NO. 11090 OF 2023 WITH
WRIT PETITION NO. 11087 OF 2023 WITH
WRIT PETITION NO. 11088 OF 2023 WITH
WRIT PETITION NO. 11091 OF 2023 WITH
WRIT PETITION NO. 11092 OF 2023 WITH
WRIT PETITION NO. 11083 OF 2023 WITH
WRIT PETITION NO. 11084 OF 2023 WITH
WRIT PETITION NO. 11085 OF 2023 WITH
WRIT PETITION NO. 11081 OF 2023 WITH
WRIT PETITION NO. 11080 OF 2023 WITH
WRIT PETITION NO. 11079 OF 2023**
...

CORAM : SIDDHESHWAR S. THOMBRE, J.

DATED : DECEMBER 01, 2025

PER COURT :

1. Heard the respective counsels.

2. In all these petitions, the petitioners challenge the order passed by the learned Industrial Court, Latur whereby the learned Industrial Court allowed the complaints filed by the respondents/herein. The respondents herein approached the learned

Industrial Court with a prayer that all these employees were appointed by the petitioner bank and they have completed 240 days service in one calendar year. In support of their contention, the employees have led the evidence and proved that they have completed 240 days in the service.

3. The learned Industrial Court has recorded the finding to that effect that all these employees have completed 240 days of service and the petitioners have not pointed out any per contra evidence to that effect. Once the respondent filed complaint with the pleading that he had worked for years together and completed 240 days of service, it was not proper on the part of the respondents to deny him regularization.

4. The Hon'ble Apex Court in the matter of ***Union of India Vs. Anita and others (2024 SCC Online SC 3826)*** has considered this aspect in paragraphs 26, 27 and 28 as under:

> *"26. While 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. However, the laudable intent of the judgment is being subverted when institutions rely on its*

dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in Uma Devi (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the Judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.

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.

28. In view of the above discussion and findings, the appeals are allowed. The impugned orders passed by the High Court and the Tribunal are set aside and the original application is allowed to the following extent :

i. The termination orders dated 27.10.2018 are quashed;

ii. The appellants shall be taken back on duty forthwith and their services regularised forthwith. However, the appellants *shall not be entitled to any pecuniary benefits/back wages for the period they have not worked for but would be entitled to continuity of services for the said period and the same would be counted for their post-retiral benefits".*

5. The Hon'ble Apex Court further in the case of ***Pandurang Sitaram Jadhav and others Vs State of Maharashtra Through its Dairy Manager and another [(2020) 17 SCC 393]*** observed in paragraphs 12, 13 and 14 as under :

"12. In view of the aforesaid facts as also the legal pronouncements made subsequently, we have no doubt that these appellants before us would be entitled to the benefit of regularisation and mere delay in preferring the claim would not come in their way except that the benefit of regularisation would arise from the date the complaints were filed.

13. The finding of an unfair labour practice by the Tribunal has in fact been confirmed by the learned Single Judge in the present case and the only two reasons for interference by the Division Bench relating to Umadevi (3) case have already been explained in the aforesaid subsequent judgments.

14. We thus, direct the respondents to regularise the appellants accordingly and the necessary orders be issued within three months from the date of the order. The benefits which the appellants would be entitled to should also be remitted to the appellants within the same period from the date of the complaints, though the earlier period would be counted for the purpose of calculation of benefits without the appellants being monetarily entitled for that period".

6. Further the Hon'ble Apex Court in the case of ***Shripal and another Vs. Nagar Nigam, Ghaziabad (2025 SCC OnLine SC 221)*** observed in paragraphs 16, 17 and 18 as under:

“16. The High Court did acknowledge the Employer's inability to justify these abrupt terminations. Consequently, it ordered re-engagement on daily wages with some measure of parity in minimum pay. Regrettably, this only perpetuated precariousness: the Appellant Workmen were left in a marginally improved yet still uncertain status. While the High Court recognized the importance of their work and hinted at eventual regularization, it failed to afford them continuity of service or meaningful back wages commensurate with the degree of statutory violation evident on record.

17. In light of these considerations, the Employer's discontinuation of the Appellant Workmen stands in violation of the most basic labour law principles. Once it is established that their services were terminated without adhering to Sections 6E and 6N of the U.P. Industrial Disputes Act, 1947, and that they were engaged in essential, perennial duties, these workers cannot be relegated to perpetual uncertainty. While concerns of municipal budget and compliance with recruitment rules merit consideration, such concerns do not absolve the Employer of statutory obligations or negate equitable entitlements. Indeed, bureaucratic limitations cannot trump the legitimate rights of workmen who have served continuously in de facto regular roles for an extended period.

18. The impugned order of the High Court, to the extent they confine the Appellant Workmen to future dally-wage engagement without continuity or meaningful back wages, is hereby set aside with the following directions :

I. The discontinuation of the Appellant Workmen's services, effected without compliance with Section 6E and Section 6N of the U.P. Industrial Disputes Act, 1947, is declared illegal. All orders or communications terminating their services are quashed. In consequence, the Appellant Workmen shall be *treated continuing in service from the date of their termination, for all purposes, including seniority and continuity in service.*

II. The Respondent Employer shall reinstate the Appellant Workmen In their respective posts (or posts akin to the duties they previously performed) within four weeks from the date of this Judgment. Their entire period of absence (from the date of termination until actual reinstatement) shall be counted for continuity of service and all consequential benefits, such as seniority and eligibility for promotions, if any.

III. Considering the length of service, the Appellant Workmen shall be

entitled to 50% of the back wages from the date of their discontinuation until their actual reinstatement. The Respondent Employer shall clear the aforesaid dues within three months from the date of their reinstatement.

IV. The Respondent Employer is directed to initiate a fair and transparent process for regularizing the Appellant Workmen within six months from the date of reinstatement, duly considering the fact that they have performed perennial municipal duties akin to permanent posts. In assessing regularization, the Employer shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Appellant Workmen similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are require the Respondent Employer shall expedite all necessary administrative processes to ensure these longtime employees are not indefinitely retained on daily wages contrary to statutory equitable norms".

7. The Hon’ble Apex Court also in the matter of ***Dharam Singh and others Vs. State of U.P. and another (2025 SCC Online 1735)*** observed in paragraph 17 to 20, as under:

> *“17. Before concluding, we think it necessary to recall that the State (here referring to both the Union and the State governments) is not a mere market participant but a constitutional employer. It cannot balance budgets on the backs of those who perform the most basic and recurring public functions. Where work recurs day after day and year after year, the establishment must reflect that reality in its sanctioned strength and engagement practices. The long-term extraction of regular labour under temporary labels corrodes confidence in public administration and offends the promise of equal protection. Financial stringency certainly has a place in public policy, but it is not a talisman that overrides fairness, reason and the duty to organise work on lawful lines.*
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> *18. Moreover, it must necessarily be noted that "ad-hocism" thrives where administration is opaque. The State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious engagement over sanctioned posts where the work is perennial. If "constraint" is invoked, the record should show what alternatives were considered, why similarly placed workers were treated differently, and how the chosen course aligns with Articles 14, 16 and 21 of the Constitution of India. Sensitivity to the human consequences of prolonged insecurity is not sentimentality. It is a constitutional discipline that should inform every decision affecting those who keep public offices running.*
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> *19. Having regard to the long, undisputed service of the appellants, the admitted perennial nature of their duties, and*

the material Indicating vacancies and comparator regularisations, we issue the following directions:

i. **Regularization and creation of Supernumerary posts***: All appellants shall stand regularized with effect from 24.04.2002, the date on which the High Court directed a fresh recommendation by the Commission and a fresh decision by the State on sanctioning posts for the appellants. For this purpose, the State and the successor establishment (U.P. Education Services Selection Commission) shall create supernumerary posts in the corresponding cadres, Class-III (Driver or equivalent) and Class-IV (Peon/Attendant/Guard or equivalent) without any caveats or preconditions. On regularization, each appellant shall be placed at not less than the minimum of the regular pay-scale for the post, with protection of last-drawn wages if higher and the appellants shall be entitled to the subsequent increments in the pay scale as per the pay grade. For seniority and promotion, service shall count from the date of regularization as given above.*

ii. **Financial consequences and arrears***: Each appellant shall be paid as arrears the full difference between (a) the pay and admissible allowances at the minimum of the regular pay-level for the post from time to time, and (b) the amounts actually paid, for the period from 24.04.2002 until the date of regularization/retirement/death, as the case may be. Amounts already paid under previous interim directions shall be so adjusted. The net arrears shall be released within three months and if in default, the unpaid amount shall carry compound interest at 6% per annum from the date of default until payment.*

iii. **Retired appellants***: Any appellant who has already retired shall be granted regularization with effect from 24.04.2002 until the date of superannuation for pay fixation, arrears under clause (ii), and recalculation of pension, gratuity and other* *terminal dues. The revised pension and terminal dues shall be paid within three months of this Judgment.*

iv. **Deceased appellants***: In the case of Appellant No. 5 and any other appellant who has died during pendency, his/her legal representatives on record shall be paid the arrears under clause (ii) up to the date of death, together with all terminal/retiral dues recalculated consistently with clause (1), within three months of this Judgment.*

v. **Compliance affidavit***: The Principal Secretary, Higher Education Department, Government of Uttar Pradesh, or the Secretary of the U.P. Education Services Selection Commission or the prevalent competent authority, shall file an affidavit of compliance before this Court within four months of this Judgment.*

20. We have framed these directions comprehensively because, case after case, orders of this Court in such matters have been met with fresh technicalities, rolling "reconsiderations," and administrative drift which further prolongs the insecurity for those who have already laboured for years on daily wages. Therefore, we have learned that Justice in such cases cannot rest on simpliciter directions, but it demands imposition of clear duties, fixed timelines, and verifiable compliance. As a constitutional employer, the State is held to a higher standard and therefore it must organise its perennial workers on a sanctioned footing, create a budget for lawful engagement, and implement judicial directions in letter and spirit. Delay to follow these obligations is not mere negligence but rather it is a conscious method of denial that erodes livelihoods and dignity for these workers. The operative scheme we have set here comprising of creation of supernumerary posts, full regularization, subsequent financial benefits, and a sworn affidavit of compliance, is therefore a pathway designed to convert rights into outcomes and to reaffirm that fairness in *engagement and transparency in administration are not matters of grace, but obligations under Articles 14, 16 and 21 of the Constitution of India".*

8. Thus, in view of the law laid down by the Hon'ble Apex Court in the above referred judgments, when the employer permitted the employee to work on daily wages for years together and extracted the work from, regularization cannot be denied to such employee. Thus, the conduct of the respondent bank amounts to unfair labour practice and this factual aspect was considered by the learned Industrial Court.

9. I do not find any perversity in the impugned orders passed by the learned Industrial Court, Latur. Hence, all writ petitions are dismissed.

10. No order as to cost.

(SIDDHESHWAR S. THOMBRE, J.)

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