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W.A.Nos.3187 of 2023 & 222 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	<i>22.10.2025</i>
<i>Pronounced on</i>	<i>16.12.2025</i>

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

W.A.Nos.3187 of 2023 & 222 of 2025
and C.M.P.Nos.26094 of 2023, 1558 & 1561 of 2025

W.A.No.3187 of 2023

JIPMER Hospital Employees Union
Rep. by its President,
Room No.314, 3rd Floor, Administrative Block,
Puducherry – 605 006.

... Appellant

Vs.

1.Jawaharlal Institute of Post Graduate
Medical Education and Research,
Rep. by its Director,
Puducherry.

2.The Central Government Industrial
Tribunal-cum-Labour Court,
Rep. by its Presiding Officer,
1st Floor, 'B' Wing, Shastri Bhawan,
26, Haddows Road, Chennai – 600 006.



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3.The Government of India,
Ministry of Labour and Employment,
SHRAM Shakti Bhavan, Rafi Marg,
New Delhi – 110 001.

4.The Government of India,
Ministry of Health and Family Welfare,
New Delhi – 110 001.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 31.10.2023 passed in W.P.No.29865 of 2017 on the file of this Court and consequently, dismiss W.P.No.29865 of 2017 as prayed for.

For Appellant	: Mr.V.Prakash, Senior Counsel for Mr.T.Saikrishnan
For R1	: Mr.A.R.L.Sundaresan, Additional Solicitor General of India assisted by Mr.M.T.Arunan, Standing Counsel
For R2	: Labour Court
For R3 & R4	: Mr.K.Srinivasamurthy, (SPCCG)

W.A.No.222 of 2025

1.Aneesan.D
2.Veerapandian.E
3.Karunagaran.K
4.Jagadeesan.S



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- 5.Gunasekaran.T
- 6.Veeramani.V
- 7.Sampath.R
- 8.Baskaran.J
- 9.Thiagarajan.L
- 10.Muthukrishnan.R
- 11.Balaraman.N
- 12.Pradeep.J
- 13.Srinivasan.P
- 14.Sinnasamy.E
- 15.David @Appu.S
- 16.Kalyanasundaram.A
- 17.Visu.D
- 18.Amudha.P
- 19.Loganayagi.N
- 20.Senthil Kumar.K
- 21.Ethilavathi.J
- 22.Vinayagam.K
- 23.Cobalakichenane.U
- 24.Poubalane.N
- 25.Neelamegam.G
- 26.Elayaraja.V
- 27.Tamil Selvan.G
- 28.Vinoth.K
- 29.Anbazhagan.S



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- 30.Ramaraj.S
- 31.Mani @ Mathiazhagan.M
- 32.Premamargaret.M
- 33.Rani.S
- 34.Ruckmani.R
- 35.Amsaraj.A
- 36.Sambath.G
- 37.Karunamurthy.K
- 38.Murugan.S
- 39.Vetrivel.P
- 40.Babu.S
- 41.Mourthy.S
- 42.Lakshmi Narayanan.P
- 43.Kumaravelu.S
- 44.Suresh.S
- 45.Kumar.M
- 46.Karunakaran.D
- 47.Arivasagan.A
- 48.Ravindiran.R
- 49.Vijayakumar.K
- 50.Kanagaraj.P
- 51.Irusappan.K
- 52.Senthamizhan.A
- 53.Selvadurai.C
- 54.Sivaraman.J



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55.Buvaneshwaran.P

56.Siva.P

57.Rajiv Gandhi.S

58.Sathish Kumar.M

59.Parasuraman.S

60.Poovarasam.V

61.Padmanaban.P

62.Selvam.V

63.Gnanasrinivasan.R

64.Vijayan.S

65.Cannadasan.S

66.Saravanan.R

67.Muthazhagan.R

68.Sundaramoorthy.V

69.S.A.John Eamil

70.Durai.S

71.Vajemouny.D

72.Kumaravel.R

73.Suriyamurthy.R

74.Sargunan.M

75.Vishnu.B

76.Jabarullah.M

77.Vignesh.T

78.Anbazhagan.B

79.Rajakumar.J



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- 80.Anthoniraj.R
81.Arumugam.K
82.Sundaramoorthy.A
83.Sampath Kumar.R
84.Rajini Shankar.J
85.Ravichandiran.R
86.Murugan.M
87.Vinoth Kumar.K
88.Venkatesan.R
89.Nandagobal.C
90.Radha Krishnan.M
91.Azhagappan.P
92.Duraisamy.V
93.Karthikeyan.D
94.Anandan.R
95.Murugan.E
96.Danmark.N
97.Kannan.S
98.Gowthaman.R
99.Danielsamy.S
100.M.Prabhu
101.Ellappan.E
102.Aaisha Siddikca @ Victoria.M
103.Mylavathi.S
104.R.Seenivasan



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- 105.Bhuvaneswari.R
- 106.M.Oudayan
- 107.Pakkiyalakshmi.S
- 108.R.Muthukumaran
- 109.Thangamani.V
- 110.Kaliyugaarasi.A
- 111.Kodhandapani.T
- 112.Viji.V
- 113.M.Pakkiri @ Raghu
- 114.K.Mohana
- 115.Velankanni.S
- 116.Anitha.S
- 117.Sudhakaran.A
- 118.Manoharan.R
- 119.Sivasankaran.K
- 120.Suganthi.P
- 121.Velmurugan.A
- 122.Senthamizh.A
- 123.Velmurugan.S
- 124.Paneerselvam.S
- 125.Tamilarasan.A
- 126.Sam Raj.L
- 127.Srinivasan.G
- 128.Moorthi.R
- 129.Nandha Kumar.K



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- 130.Pushpa.S
- 131.Vengatesan.K
- 132.Manivannan.C
- 133.Moovendan.P
- 134.Sundararasu.R
- 135.Jeyachandiran.R
- 136.Ramadoss.L
- 137.Sankar.R
- 138.Kannan.R
- 139.Vinayagamoorthi.A
- 140.Kalyani.K
- 141.Vanitha.S
- 142.Chitra.P
- 143.Mangalakshmi.N
- 144.Anandhavalli.E
- 145.Vasantha.K
- 146.Anandhan.A
- 147.Revathi.P
- 148.Kavitha.M
- 149.Poongavanam.D
- 150.Narayanasamy.K
- 151.S.Zivanandame Pardon
- 152.Balakumar
- 153.Narmatha.T
- 154.Vinoth.L



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- 155.Nirmala.R
- 156.Albert Raj.A
- 157.Sumathi.J
- 158.Vijayan.G
- 159.S.Paneerselvam
- 160.Asokan.V
- 161.Iyyanar.R
- 162.Sudha.V
- 163.Kannan.R
- 164.Arokiyamary @ Mariya Stella.A
- 165.Veeramuthu
- 166.Shanmugam.R
- 167.Savithri
- 168.R.Raji
- 169.R.Rajendran
- 170.P.Perumal
- 171.Elumalai.T
- 172.R.Saravanan
- 173.Sumathi.M
- 174.Hemalatha.K
- 175.Umarani.T
- 176.Anjalatchi.J
- 177.Malliga,R
- 178.Rajkumar.R
- 179.Ezhilan.M



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- 180.Sakthivel.S
- 181.Sivasankaran.M
- 182.Anand.P
- 183.Raja.K
- 184.Rajasekaran.S
- 185.Sakthivel.E
- 186.Kesavan.R
- 187.Sivakumar.S
- 188.Ezhilarasi.P
- 189.Haridoss.E
- 190.Thirugnanam.K
- 191.Prabakar.E
- 192.Valli.A
- 193.Guberan.S
- 194.Arumugam.S
- 195.Kavitha.R
- 196.Balamurugan.M
- 197.Thilaga.V
- 198.Aru Murali.D
- 199.Samundeeswary.M
- 200.Karthika.K
- 201.Ilamathi.S
- 202.Karthikeyan.R
- 203.Hema.K
- 204.Madhavan.G



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- 205.Megalajothi.D
206.Prasath.M
207.Bhavani.S
208.Vijayalakshmi.M
209.Venkatajalapthy.B
210.Amsavalli.K
211.Manimaran.J
212.Ricobar.v
213.Maheswari.S
214.Punitha.P
215.Santhosh Kumar.S
216.Thamizhselvi.B
217.Uma.M
218.Lakmanan.S
219.Malarvizhi.M
220.Pushpa.I
221.Danalakshmi.P
222.Sagadevan.D
223.Ruthappa.N
224.Irusappan.A
225.Ponnimuthammal.V
226.Thanavalli.A
227.Sasikala.A
228.Valli.R
229.Priya.K



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- 230.Kannan.T
231.Saraswathi.D
232.Lourdmarie.N
233.Jayamathi.D
234.Lakshmi.N.P
235.Pushpa.N
236.Anbu.R
237.Kaviarasan.R
238.Gnanaprakasam.P
239.Valli.M
240.Vengatesan.P
241.Anjulatcham.R
242.Anbarasi.V
243.Rani.P
244.Sudha.M
245.Manoranjitham.S
246.Tamilarasi.J
247.Adilakshmi.V
248.Revathy.S
249.Dhatchayani.P
250.Shanthi.M
251.Vinnarasi.J
252.Manjula.K
253.Dhanalakshmi.A
254.Vanaroja.M



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- 255.Usha.J
256.Ramesh @ Arokiyanathan.P
257.Kumari.R
258.Padma.V
259.Ranjithan.V
260.Anbu.E
261.Vasuki.G
262.Senthilkumar.P
263.Anitha.M
264.Kanchana Devi.S
265.Lakshmi.N
266.Jayanthi.B
267.Job Sarna.B
268.Manimala.G
269.Jayapoorani.B
270.Santhi.S
271.Meera.R
272.Jayanthi.R
273.Raja Rathinam.A
274.Bakkiam.K
275.Mary.K
276.Valarmathy.A
277.Amuthavalli.B
278.Lakshmi.T
279.Madavan.D



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- 280.Sumathi.V
281.Kasthuri.T
282.Prakash.B
283.Jaya.P
284.Sivagami.M
285.Manikandan.P
286.Dhanalakshmi.R
287.W/o.Perumal
288.Arokyamary.A
289.Om Murugan.D
290.Andal.A
291.Aruldoss.E
292.Suganthi.S
293.Devi.M
294.Banu.M
295.Malathy.S
296.Jayalakshmi.G
297.Mathchavalli.R
298.Annakili.D
299.Vijayalakshmi.K
300.Mangalakshmi.K
301.Duprot Josphine.N
302.Mariammal.A
303.Jothi.S
304.Dhanalaxmi.M



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- 305.Kavitha.M
306.Malliga.R
307.Kalamalini.S
308.Kavitha.T
309.Usha.V
310.Lakshmi.P
311.Padma.B
312.Nagammal.N
313.Nirmala.S
314.Sargunam.V
315.Mahalakshmi.V
316.Pushpavalli.K
317.Sankari Devi.M
318.Kala.N
319.Santhi.M
320.Irusammal.S
321.Annapoorani.S
322.Fransisca.J
323.Valarmathy.M
324.Navaneetham.A
325.Ponnammal.M
326.Jothi.V
327.Vanaja.V
328.Parameswari.S
329.Jayalakshmi.S



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330.Ramachandiran.N

331.Sarguna.J

332.Thaiyalnayaki.V

333.Thilagavathy.T

334.Sameswari.V

335.Jegathambal.E

336.Selvi.A

337.Sathya Priya.A

338.Selvakumari.A

339.Santhosh Kumar.M

340.Ramalingam.M

341.Kalavathi.D

342.Vijayalakshmi.P

343.Lakshmi.K

344.Rajalakshmi.M

345.Karpagam.D

346.Gowri.H

347.Menaka.S

348.Kousalya.K

349.Suguna.S

350.Sebastin.L

351.Rathinambal.V

352.Krishnaveni.A

353.Usha.S

354.Banumathi.V



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- 355.Sakunthala.A
356.Suresh.K
357.Jayalakshmi.R
358.Rubala.R
359.Kanagavalli.R
360.Rajeswari.G
361.Bhuvaneswari.K
362.Deivanai.J
363.Suseela.R
364.Mangayarkarasi.V
365.Chandramouleeswaran.P
366.Lakshmi.S
367.Thanigaimani.M
368.Thirukumaran.M
369.Kumari.B
370.Jothilakshmi.B
371.Savithri.S
372.Kannadasan.S
373.Kamala.A
374.Jayanthi Arokia Mary
375.Pushpagandhi.E
376.Mathi.S
377.Parameswari.E
378.Dhanam.R
379.Anjalai Devi.G



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- 380.Revathy.L
381.Sarasu.T
382.Tirumalai Devi.R
383.Kaliammal.T
384.Nandagobal.P
385.Ranganathanan.D
386.Dhananchezian.G
387.Vinayagam.G
388.Gnanam.J
389.Sakthivel.M
390.Venkatesan.K
391.Elumalai.E
392.Kannan.V
393.Karthikeyan.R
394.Mohanraj.V
395.Saravanan.S
396.Kumaran.G
397.Udhayakumaran.U
398.Udhayasingh.K
399.Manikandan.S
400.Subashini.M
401.Jothi.R
402.Velaiyan.K
403.W/o. Sankar
404.Sumathi.K



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- 405.Thilagam.S
406.Arun.V
407.Jothi.D
408.Arokiamary.V
409.Balakeerthi.S
410.Nagamani.B
411.Komathi.M
412.Mary Logamani.M
413.Valarmathi.K
414.Kannagi.S
415.Chitra.S
416.Latchoumy.V
417.Murugan.S
418.Visalatchi.J
419.Suguna.I
420.Rajeswari.C
421.Uma Mahesh.P
422.Sulochana.G
423.Dhanalakshmi.I
424.Janatha.S
425.Selvi.P
426.Palaniammal.P
427.Prabhavathi.J
428.Arul Theresa.S
429.Sundaramoorthi.P



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- 430.Krishnaveni.M
431.Bhuvaneswari.K.R
432.Kamalam.S
433.Thilagam.S
434.Nagammal.C
435.Shanthi.M
436.Thillaiammal.J
437.Anjalatchi.M
438.Kasthuri.M
439.Adilakshmi.K
440.Geetha.S
441.Machagandhi.K
441.Rani.N
443.Anusuya.M
444.Saranya.R
445.Bouvnesvary.S.L
446.Sathyamoorthy.T
447.Senthil Kumar.R
448.Selvi.G
449.Anbarasan.S
450.Murugan.S
451.Maria Santhi.M
452.Anbarasu.N
453.Chaoulhameed.A
454.Elumalai.M



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- 455.Kumar.S
456.Sathya.S
457.Indirany.L
458.Muthuvel.S
459.Kathiravan.K
460.Kamaladass.K
461.Narayanan.V
462.Ramachandiran.R
463.Malar.K
464.Lakshminathan.M
465.Aruljothi.E
466.Krishnaveni
467.Radhy.K
468.Jayaratha.R
469.Lakshmi.R
470.Arasappan.P
471.Senthamarai Selvi
472.Anjalatchi.S
473.Anandhan.S
474.Latha.G
475.Manjula.M
476.N.Thilishathbee
477.Parameswari.J
478.Sathiyaseelan.G
479.Vanitha.R



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- 480.Shanthi.K
481.Palaniammal.S
482.Muthuarasan.M
483.Raghuraman.G
484.Adilakshmi.G
485.Anitha.V
486.Annamalai.P
487.Aruljothi.C
488.Bhavani.R
489.Devaki.I
490.Devi.M
491.Dhanalakshmi.S
492.Dhanalakshmi.S
493.Ezhilarasi.E
494.Jayanthi.P
495.Jayanthi.P
496.Jeevanantham.V
497.Joshammal Reuvier.D
498.Jothi.D
499.Jothi.D
500.Kalaiselvi.K
501.Kannagi.M
502.Kumar.S
503.Kumari.I
504.Lakshmi.M.N



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- 505.Lakshmi.A
506.Mahalakshmi.T
507.Manjula.K
508.Menaga.P
509.Mourouvaye.J
510.Muniammal.K
511.Muthal.R
512.Narendiran.V
513.Nelson Jeevanesan.B
514.Palaniammal.S
515.Palaniammal.S
516.Panjalai.N
517.Parvathy.S
518.Parvathy.S
519.Rajaveni.G
520.Rathna.G
521.Revathy.R
522.Sankar.M
523.Saranya.S
524.Saraswathi.S
525.Shakthivel.S
526.Shankar.S
527.Santha.K
528.Shanthi.E
529.Sivagami.M.P



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530.Sivakumar.G

531.Sudha.S

532.Suganthi.K

533.Suguna.M

534.Sumathy.M

535.Sumathy.V

536.Thamarai Selvi.P

537.Uthiradam.M

538.Valarmathy.V

539.Vanitha.K

540.Vasuki.S

541.Velu.S

542.Velu.S

543.Vijayalakshmi.A

544.Vijayalakshmi.R

545.Mariya Stella.M

546.Tamizhselvi.M

547.Kavitha.B

... Appellant

Vs.

1.Jawaharlal Institute of Post Graduate
Medical Education and Research,
Rep. by its Director,
Puducherry.



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2.JIPMER Hospital Employees Union
Rep. by its President,
Room No.314, 3rd Floor, Administrative Block,
Puducherry – 605 006.

3.The Central Government Industrial
Tribunal-cum-Labour Court,
Rep. by its Presiding Officer,
1st Floor, 'B' Wing, Shastri Bhawan,
26, Haddows Road, Chennai – 600 006.

4.The Government of India,
Ministry of Labour and Employment,
SHRAM Shakti Bhavan, Rafi Marg,
New Delhi – 110 001.

5.The Government of India,
Ministry of Health and Family Welfare,
New Delhi – 110 001.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 31.10.2023 in W.P.No.29865 of 2017 on the file of this Court and consequently, dismiss W.P.No.29865 of 2017 as prayed for.

For Appellant : Mr.V.Prakash, Senior Counsel
for Mr.T.Saikrishnan

For R1 : Mr.A.R.L.Sundaresan,
Additional Solicitor General of India
assisted by Mr.M.T.Arunan,
Standing Counsel

For R2 : No appearance

For R3 to R5 : Mr.K.Srinivasamurthy, (SPCCG)



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COMMON JUDGMENT

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M.S.RAMESH, J.

Jawaharlal Institute of Post Graduate Medical Education and Research (hereinafter referred to as 'JIPMER') is a premier hospital in the Union Territory of Puducherry, which have been engaging daily rated labourers (DRLs) in their various Departments as under:-

DIETETICS DEPARTMENT for the duties of vegetable cutting, assisting in cooking, diet issue, distribution in ward/milk/fruit/diet tray collection and washing laundry, linen collection from ward/washing and drying the linen/dry cleaning/distribution of linen to ward.

LINEN SECTION for the duties of stitching the cloth and cutting pillow cover, bed sheet, face mask.

NURSING SECTION/WARD for the duties of patient shifting/patient care/sample collection/urine blood measuring/stretchers bearing/barber work/ward shifting/indent collection from central store, CSSD, laundry, pharmacy and stationary, ICU, OT, shifting of patient for CT Scan/MRI, X-ray from ward.

MEDICAL RECORD DEPARTMENT for the duties of registration of CCR/OP & IP case, medical record



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file/census collection/dead body put in and take out the dead body for postmortem.

OFFICE OF DEPARTMENTS for the duties of dispatching tapals to various departments, sections, unit and file movement to other departments/section/Administration block, SRB/Petty cash movement, refreshment work, table chairs and arrangements for departmental meeting/conference etc., dispatching the speed post to post office, dispatching the DD/Postal order in Bank, indent collection from stationary department/CSSD/Linen section/laundry.

ACADEMIC

SECTION/EXAMINATION/COLLEGE OF NURSING for the duties of dispatching the tapal to various section, department, units and admin block, petty cash, SRB, file movement to various department, section, units, refreshment arrangement for meeting, exam paper collection, decoding work, packing of exam papers, question papers packing.

2. There are 72 categories of Group-D posts in the Institute. The Sixth Central Pay Commission recommended these Group-D posts to be upgraded into Group-C posts and recommended for revision of the



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recruitment rules. The recommendation also prohibited further recruitment to Group-D posts and the existing Group-D posts to be placed in Group-C pay band. The minimum qualification for appointment to this level will be either 10th pass or ITI or equivalent. Recommendations were also made for multi skilling, with one employee performing jobs hitherto performed by different Group-D employees and placing them with a common designation. As per the subsequent D.O.P.T guidelines, 51 categories of posts were identified and redesignated as Multi-tasking Staff. Among the displaced DRLs, several of them who possess the required qualification were absorbed in the Group-C posts. The unsuccessful DRLs, who were either not absorbed in Group-C posts or claimed to have been working for several years as DRLs, raised disputes before the Assistant Labour Commissioner (Conciliation) Puducherry, from the year 2012 onwards. On the failure of the conciliation proceedings, the Central Government, Ministry of Labour & Employment, through its order dated 03.01.2014, referred the Industrial Dispute to the Central Government Industrial Tribunal-cum-Labour Court, Chennai (hereinafter called as 'CGIT'), for adjudication. The point of reference therein reads as follows:-

“Whether the demand of the workmen (As per



Annexure-A) seeking regularization in the post they are engaged continuously by the Management of JIPMER, Puducherry is legal and justified? If not, to what relief the concerned workmen are entitled to?"

3. The Claim Petition, which was filed by JIPMER Hospital Employees Union on behalf of the DRLs, was taken up on file in I.D.No.5 of 2014. The CGIT, through its Award dated 19.07.2017, allowed the Claim Petition and answered the reference in the following manner:-

“The Respondent is directed to regularize all the concerned workmen who have completed 5 years of service as on 05.03.2012 on which date the dispute was raised in Group ‘D’ post. They will be entitled to regular pay-scale and all other benefits due to permanent workmen, from this date. Arrears of pay due on account of such regularization shall be paid within two months of publication of the Award. In default the amount will carry interest @ 7.5% from the date of the Award.”

4. Challenging the Award in I.D.No.5 of 2014 dated 19.07.2017, JIPMER had filed a Writ Petition in W.P.No.29865 of 2017. A learned Single Judge of this Court, had allowed the Writ Petition on 31.10.2023 by



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holding as follows:-

..... “6.8. From the aforesaid discussions and decisions analysed it is clear that,

a) there is no unfair labour practice adopted by the petitioner Institution.

b) The powers of Industrial Tribunal/Labour Courts are not beyond the powers of Supreme Court or High Court under Article 32 or Article 226 of the Constitution.

c) The Award speaks about regularisation of the workmen who have completed 5 years services as on 05.03.2012 and fixing them in the pay scale of permanent workmen. Such abstract and undefined Awards is literally arbitrary and unimplementable.

d) The locus standi of the unrecognised Union is questionable and has not been satisfactorily substantiated by the respondent Union.

7. The petitioner Institution has merit in its case. The Central Government Industrial Tribunal cum Labour Court, Chennai, has erred in concluding that there is unfair Labour practice and making such an Award.

8. In the result, the Writ Petition is allowed. No costs. Consequently connected Writ Miscellaneous Petitions are closed. The Award dated 19.07.2017

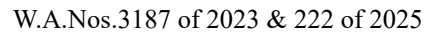


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passed in I.D. No.5 of 2014 on the file of the Central Government Industrial Tribunal cum Labour Court, Chennai, is quashed.”

5. Before the CGIT, among other objections, JIPMER had also contended that the petitioner Union has no *locus standi* to raise a dispute on behalf of the DRLs. Anticipating that similar objection may be raised while the order of the learned Single Judge is challenged, 547 individual DRLs had challenged the order of the Writ Court before us in W.A.No.222 of 2025. The JIPMER Hospital Employees Union had also challenged the same order in W.A.No.3187 of 2023. Both the appeals, since arises out of the same order, are disposed of through this common judgment.

6. The primary contention of Mr.A.R.L.Sundersan, learned Additional Solicitor General of India, assisted by Mr.M.T.Arunan, learned Standing Counsel, appearing for JIPMER, is that the appointments of all these DRLs were irregular since they were not engaged from the recommendation of the Employment Exchange or through a regular recruitment process, the rule of reservation was not followed etc., and therefore, in view of the judgment of the Hon'ble Supreme Court in



reported in **(2006) 4 SCC 1**, the DRLs whose services were engaged through illegal and backdoor appointments, cannot, as a matter of right, seek for regularization. It is also his contention that when there were no sanctioned posts for the nature of duties undertaken by these DRLs, the Tribunal or the High Court cannot issue directions for creation of posts or for regularization. By referring to the Award of CGIT, he reiterated that in the absence of a sanctioned post, Clause 10 of Schedule V of the Industrial Disputes Act, 1947, relating to unfair labour practices for long continuance of badlis, casuals or temporaries with the object of depriving them of the status and privileges of permanent workmen, will not be attracted. Though **Umadevi (3)'s case (supra)** arises out of service law in a public employment, the principles enshrined therein would be applicable to employment under labour laws also, in view of the decision of the Hon'ble Supreme Court in **'U.P. Power Corporation Ltd. & another Vs. Bijli Mazdoor Sangh & others'** reported in **(2007) 5 SCC 755**.

7. Mr.V.Prakash, learned Senior Counsel for Mr.T.Saikrishnan, learned counsel appearing for both the JIPMER Union, as well as the



DRLs, claims that the long engagement of the services of these DRLs for more than a decade by JIPMER was with the sole object of depriving them of the status, privileges of the permanent workmen, which amounts to unfair labour practices on the part of the employer. According to him, the work extracted from these DRLs were perennial in nature and the non-sanctioning of posts by the Union Territory is patently arbitrary and with malafides, in which circumstance, both CGIT and the High Court will be justified in exercising the powers of the judicial review. By pointing out to the nature of duties extracted from the DRLs, he stressed that these are basic day-to-day work to run a hospital and the failure on the part of the Management to regularize their services or have sanctioned posts, would be violative of Articles 14 & 16 of the Constitution of India.

8. It is his further submission that the judgment in *Umadevi (3)'s case (supra)* will have no application when the failure is on the part of the Union Territory to create posts, which is arbitrary. Since the judgment in *Umadevi (3)'s case (supra)*, arises out of service laws in a public employment, it will have no application to matters relating to industrial dispute adjudications, for which purpose, he relies upon '*Durgapur*



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Casual Workers Union & others Vs. Food Corporation of India & others' reported in ***(2015) 5 SCC 786*** and ***'Maharashtra State Road Transport Corporation & another Vs. Casteribe Rajya Parivahan Karmchari Sanghatana'*** reported in ***(2009) 8 SCC 556***.

9. By way of an attempt to justify the Award of the CGIT for regularizing the concerned workman, who had completed 5 years of service, he placed reliance on ***'Umrala Gram Panchayat Vs. Secretary, Municipal Employees Union & others'*** reported in ***(2015) 12 SCC 775***, wherein, the Hon'ble Supreme Court had adopted the five years yardstick for the purpose of regularization. Reliance was also placed on a decision of the Hon'ble Full Bench of this Court in ***'M.Sivappa Vs. The State of Tamil Nadu & others'*** in ***WP.No.23823 of 2023 dated 26.02.2024***, wherein the decision in ***Umadevi (3)'s case (supra)*** was distinguished and regularization of the part-time or temporary employees, who have completed 10 years of service, was made permissible in circumstance given therein.



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10. We have given our anxious consideration to the submissions made on the either side.

11. Before we address the core issue of these appeals, it would be relevant to observe that JIPMER had taken a specific stand before the CGIT, as well as in the Writ Petition that the JIPMER Union has no *locus standi* to raise the disputes on behalf of the DRLs. The learned Additional Solicitor General, during the course of arguments, fairly submitted that he is not pressing the ground of *locus standi* in these appeals. Hence, we refrain from addressing this aspect which was dealt with both by the CGIT, as well as the Writ Court, which order is impugned in these Writ Appeals.

12. The two issues that arise before us in these Writ Appeals are:-

- (i) *Whether the engagement of the DRLs, continuously for substantial number of years, without regularizing their services, would amount to unfair labour practices?*
- (ii) *Whether the judgment in **Umadevi (3)'s case** (supra) would denude the Industrial and Labour Courts of their statutory power to order permanency to the victims of unfair labour practices on the*



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part of the employer?

13. Before CGIT, it is the specific case of the DRLs that among the numerous members of the JIPMER Union, the earliest of them were engaged in the year 1987, while majority of them were engaged during 1991-2001. It was also claimed that few of them were engaged during 2005-2006.

14. In the counter-statement filed before CGIT, JIPMER had disputed the number of DRLs claimed by the Union, but had not denied the claim of having worked for the past 10 years. Even in the affidavit filed in support of the Writ Petition by JIPMER, that almost all the claimants before CGIT had completed 10 years of continuous service, has not been denied. However, in the counter-affidavit filed before us, as well as the submission of the learned Additional Solicitor General, it is claimed that none of the DRLs had completed atleast 5 years of service on the date when the dispute was raised before CGIT. The counter-affidavit also affirms that the services of the DRLs were continued during the pendency of the industrial dispute before CGIT and even thereafter, in view of the



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pendency of various litigations raised by them, but not on account of interim orders of the Courts.

15. We do not endorse such an objection of JIPMER for the first time in a Writ Appeal, which is an aspect based on facts and the CGIT being the fact finding authority, did not have the benefit of adjudicating this objection. Our task in these Writ Appeals is to test the veracity and legality of the order passed in the Writ Petition and when a disputed fact is raised for the first time before us, we deem it unjustifiable to render a finding on the same. Thus, from the averments made before CGIT that almost all of the DRLs have completed 10 years of continuous service, in the absence of any counter-statement, the same deserves to be adopted.

16. The two issues which arise before us, are interconnected and hence, we answer them jointly in the succeeding portion of our judgment.

17. The sum and substance of the case of JIPMER is that the appointment of all the DRLs were irregular and not against sanctioned posts and therefore, in view of the judgment in *Umadevi (3)'s case (supra)*,



their claim for permanency or regularization is impermissible and that the CGIT or the High Court lacks power of judicial review for creating posts for the purpose of such regularization.

18. The nature of duties performed by these DRLs for atleast more than a decade was neither sporadic, seasonal nor linked to any temporary scheme, rather, the discharge functions were identical to those performed by any other regularly appointed employees from similar establishments. In such circumstances, when the nature of work is perennial, the employment cannot be treated as temporary merely by nomenclature. The principle that what one cannot do directly, cannot be done indirectly, applies with equal force. An employer cannot permanently utilize labour for permanent work while denying the employees, the legal status corresponding to the nature of duties. With this prelude, we shall now address the salient features of the arguments on either side. The main claim that the engagement of the services of the DRLs was irregular, is due to the absence of sanctioned posts for the duties which they perform.



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19. Sanctioned post is a formal recognition of an existing need and where the State continuously avails the services of a person for more than a decade, the factual need for the post stands established. The Government cannot create a permanent requirement, but deny permanent status. While a sanctioned post is an incident of administrative action, the existence of work is an incident of fact. The facts cannot be defeated by the absence of formality. The State cannot take advantage of its own wrong by failing to create posts despite perennial need and JIPMER is certainly not justified in arguing before us that no posts exist, when its own inaction is the cause. This principle is consistent with the legal maxim *nullus commodum capere potest de injuria sua propria*, meaning no one can benefit from his own wrong.

20. Having found so, it leads us to address the next submission of JIPMER that the decision in *Umadevi (3)'s case (supra)*, creates an embargo for the DRLs to seek for regularization. The Constitution Bench in *Umadevi (3)'s case (supra)* dealt with backdoor, irregular, illegal appointments and court-driven schemes of regularization. The present case before us stands on a materially different footing for multiple reasons.



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In *Umadevi (3)'s case (supra)*, neither the employees were engaged for perennial work, nor were they rendering essential departmental functions for long periods. Therein, the State had not utilized them for 10 to 20 years and the question of implied sanctioned posts due to long standing need was not considered.

21. *Umadevi (3)'s case (supra)* had also carved out a one time exception for the employees serving 10 years or more, working against the sanctioned post or required post, for services rendered without Court orders and for such appointments, though irregular but not illegal. The relevant portion of the judgment in *Umadevi (3)'s case (supra)* reads thus:-

..... “53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V. Narayanappa, R.N. Nanjundappa and B.N. Nagarajan* 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



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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 sub judice, 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.”

22. Much reliance has been placed on *Umadevi (3)'s case (supra)* by JIPMER, predominantly on the facts of this case that the engagement of the services of the DRLs were not irregular but illegal, that there was no



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posts available on which the services of the DRLs could have been regularized, that the appointments were in contravention of the reservation policy and that these DRLs were not sponsored through Employment Exchanges at the time of their initial engagement.

23. We may not have any difficulty in overruling these objections since similar scenario of such objections came up for consideration before the Hon'ble Supreme Court in '*Sheo Narain Nagar & others Vs. State of Uttar Pradesh & others*' reported in (2018) 13 SC 432. After recording these similar objections of the State, the Hon'ble Supreme Court had distinguished *Umadevi (3)'s case (supra)* and rejected their claim by holding it as not only unconstitutional, but also denial of their right, which is impermissible, in the following manner:-

..... “6. The learned counsel appearing on behalf of the respondent has relied upon para 44 of the decision in *Umadevi (3)* [*State of Karnataka v. Umadevi (3)*], so as to contend that it was not the case of irregular appointment but of illegal appointment; there was no post available on which the services of the appellants could have been regularised and appointment were in contravention of the reservation policy also; thus,



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termination order was rightly issued and, in no case, the appellants were entitled for regularisation of their services.

7. When we consider the prevailing scenario, it is painful to note that the decision in Umadevi (3) has not been properly understood and rather wrongly applied by various State Governments. We have called for the data in the instant case to ensure as to how many employees were working on contract basis or ad hoc basis or daily-wage basis in different State departments. We can take judicial notice that widely aforesaid practice is being continued. Though this Court has emphasised that incumbents should be appointed on regular basis as per rules but new devise of making appointment on contract basis has been adopted, employment is offered on daily-wage basis, etc. in exploitative forms. This situation was not envisaged by Umadevi (3). The prime intendment of the decision was that the employment process should be by fair means and not by back door entry and in the available pay scale. That spirit of the Umadevi (3) [State of Karnataka v. Umadevi (3), has been ignored and conveniently overlooked by various State Governments/authorities. We regretfully make the observation that Umadevi (3) has not been



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implemented in its true spirit and has not been followed in its pith and substance. It is being used only as a tool for not regularising the services of incumbents. They are being continued in service without payment of due salary for which they are entitled on the basis of Articles 14, 16 read with Article 34(1)(d) of the Constitution of India as if they have no constitutional protection as envisaged in D.S. Nakara v. Union of India, from cradle to grave. In heydays of life they are serving on exploitative terms with no guarantee of livelihood to be continued and in old age they are going to be destituted, there being no provision for pension, retiral benefits, etc. There is clear contravention of constitutional provisions and aspiration of downtrodden class. They do have equal rights and to make them equals they require protection and cannot be dealt with arbitrarily. The kind of treatment meted out is not only bad but equally unconstitutional and is denial of rights. We have to strike a balance to really implement the ideology of Umadevi (3). Thus, the time has come to stop the situation where Umadevi (3) can be permitted to be flouted, whereas, this Court has interdicted such employment way back in the year 2006. The employment cannot be on exploitative terms,



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whereas Umadevi (3), laid down that there should not be back door entry and every post should be filled by regular employment, but a new device has been adopted for making appointment on payment of paltry system on contract/ad hoc basis or otherwise. This kind of action is not permissible when we consider the pith and substance of true spirit in Umadevi (3).”

24. The aforesaid extract is self-explanatory wherein the Hon’ble Supreme Court had frowned upon various State Governments for misinterpreting *Umadevi (3)'s case (supra)* and wrongly applying its ratio and denying what it otherwise felt as a constitutional right of a contract/adhoc/daily wage employees to seek for regularization of their services. Likewise, in ‘*Nihal Singh & others Vs. State of Punjab & others*’ reported in (2013) 14 SCC 65, it was held that the State cannot continuously utilize labour for permanent functions, benefit from their services and then deny regularization by claiming non-creation of posts. By making a reference to *Umadevi (3)'s case (supra)* and distinguishing the same, the Hon’ble Supreme Court ultimately had held that the absence of sanctioned posts cannot defeat the legitimate right of workers continuously engaged for essential duties. The decision in *Nihal Singh’s*



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case (supra), like that of *Sheo Narain Nagar's case (supra)* squarely applies to the present appeals in hand.

25. There are also other constitutional mandates which seem to be violated through JIPMER's demeanour. Depriving regularization while using the services of the DRLs for over a decade on regular work, not only violates the principle of equality, but the conduct of continuing them on daily wages indefinitely may amount to exploitation, which certainly would be arbitrary and unfair and thus, violative of both Articles 14 & 16 of the Constitution of India. Keeping the DRLs in perpetual daily wage status, for perennial work, may also amount to economic coercion and forced labour, which is opposed to Article 23 of the Constitution of India. JIPMER had eventually deprived the long-serving DRLs of security of service when their work is essential and continuous, thereby affecting their right to livelihood and dignity, which is guaranteed under Article 21 of the Constitution of India.

26. We have already rendered our reasonings that almost all of the DRLs have been continuously engaged for over and above 10 years under



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the services of JIPMER. We have also set forth the exceptions recognized in *Umadevi (3)'s case (supra)*, which exceptions would directly apply to the facts of the case before us and the position of law which was reinforced in similar set of facts in *Sheo Narain Nagar's case (supra)*.

27. In similar cases, when the part-timers/adhocs/daily wagers had completed 10 years of service and regularization was either not extended or denied, the Hon'ble Supreme Court, after distinguishing the judgment in *Umadevi (3)'s case (supra)*, had frowned upon the exploitation of the long-serving temporary employees in public employment and directed for regularization of their services from the date of completion of their 10 years of service.

28. In '*Narendra Kumar Tiwari & others Vs. State of Jharkhand & others*' reported in (2018) 8 SCC 238, the Hon'ble Supreme Court had extensively dealt with *Umadevi (3)'s case (supra)* and the concept of regularization was given a pragmatic interpretation and ultimately concluded that the daily wagers or contract workers who had completed 10 years of service should be regularized. Following are the relevant portions



of the said judgment:-

“5. The decision in Umadevi (3), was intended to put a full stop to the somewhat pernicious practice of irregularly or illegally appointing daily-wage workers and continuing with them indefinitely. In fact, in para 49 of the Report, it was pointed out that the rule of law requires appointments to be made in a constitutional manner and the State cannot be permitted to perpetuate an irregularity in the matter of public employment which would adversely affect those who could be employed in terms of the constitutional scheme. It is for this reason that the concept of a one-time measure and a cut-off date was introduced in the hope and expectation that the State would cease and desist from making irregular or illegal appointments and instead make appointments on a regular basis.

6. The concept of a one-time measure was further explained in Kesari in paras 9, 10 and 11 of the Report which read as follows: (SCC pp. 250-51, paras 9-11)

“9. The term “one-time measure” has to be understood in its proper perspective. This would normally mean that after the decision



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in Umadevi (3), each department or each instrumentality should undertake a one-time exercise and prepare a list of all casual, daily-wage or ad hoc employees who have been working for more than ten years without the intervention of courts and tribunals and subject them to a process verification as to whether they are working against vacant posts and possess the requisite qualification for the post and if so, regularise their services.

10. At the end of six months from the date of decision in Umadevi (3), cases of several daily-wage/ad hoc/casual employees were still pending before courts. Consequently, several departments and instrumentalities did not commence the one-time regularisation process. On the other hand, some government departments or instrumentalities undertook the one-time exercise excluding several employees from consideration either on the ground that their cases were pending in courts or due to sheer oversight. In such circumstances, the employees who were entitled to be considered in terms of para 53 of the decision in Umadevi (3), will not lose their right to be considered



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for regularisation, merely because the one-time exercise was completed without considering their cases, or because the six-month period mentioned in para 53 of Umadevi (3) has expired. The one-time exercise should consider all daily-wage/ad hoc/casual employees who had put in 10 years of continuous service as on 10-4-2006 without availing the protection of any interim orders of courts or tribunals. If any employer had held the one-time exercise in terms of para 53 of Umadevi (3), but did not consider the cases of some employees who were entitled to the benefit of para 53 of Umadevi (3), the employer concerned should consider their cases also, as a continuation of the one-time exercise. The one-time exercise will be concluded only when all the employees who are entitled to be considered in terms of para 53 of Umadevi (3), are so considered.

11. The object behind the said direction in para 53 of Umadevi (3) is twofold. First is to ensure that those who have put in more than ten years of continuous service without the protection of any interim orders of courts or



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tribunals, before the date of decision in Umadevi (3) was rendered, are considered for regularisation in view of their long service. Second is to ensure that the departments/instrumentalities do not perpetuate the practice of employing persons on daily-wage/ad hoc/casual basis for long periods and then periodically regularise them on the ground that they have served for more than ten years, thereby defeating the constitutional or statutory provisions relating to recruitment and appointment. The true effect of the direction is that all persons who have worked for more than ten years as on 10-4-2006 [the date of decision in Umadevi (3) without the protection of any interim order of any court or tribunal, in vacant posts, possessing the requisite qualification, are entitled to be considered for regularisation. The fact that the employer has not undertaken such exercise of regularisation within six months of the decision in Umadevi (3) or that such exercise was undertaken only in regard to a limited few, will not disentitle such employees, the right to be considered for



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regularisation in terms of the above directions in Umadevi (3) as a one-time measure.”

7. The purpose and intent of the decision in Umadevi (3) was therefore twofold, namely, to prevent irregular or illegal appointments in the future and secondly, to confer a benefit on those who had been irregularly appointed in the past. The fact that the State of Jharkhand continued with the irregular appointments for almost a decade after the decision in Umadevi (3) is a clear indication that it believes that it was all right to continue with irregular appointments, and whenever required, terminate the services of the irregularly appointed employees on the ground that they were irregularly appointed. This is nothing but a form of exploitation of the employees by not giving them the benefits of regularisation and by placing the sword of Damocles over their head. This is precisely what Umadevi (3) and Kesari sought to avoid.

8. If a strict and literal interpretation, forgetting the spirit of the decision of the Constitution Bench in Umadevi (3), is to be taken into consideration then no irregularly appointed employee of the State of



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Jharkhand could ever be regularised since that State came into existence only on 15-11-2000 and the cut-off date was fixed as 10-4-2006. In other words, in this manner the pernicious practice of indefinitely continuing irregularly appointed employees would be perpetuated contrary to the intent of the Constitution Bench.

10. Under the circumstances, we are of the view that the Regularisation Rules must be given a pragmatic interpretation and the appellants, if they have completed 10 years of service on the date of promulgation of the Regularisation Rules, ought to be given the benefit of the service rendered by them. If they have completed 10 years of service they should be regularised unless there is some valid objection to their regularisation like misconduct, etc.”

29. In paragraph 53 of *Umadevi (3)'s case (supra)*, the Hon'ble Supreme Court had carved out an exception for irregular appointees, who had completed 10 years or more and directed the Union of India, the State Governments and their instrumentalities to take steps to regularize as a one-time measure, the services of such irregular appointees, who have



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worked for 10 years or more, within 6 months from the date of pronouncement of the judgment i.e. 10.04.2006.

30. Non-adherence to the aforesaid directions in *Umadevi (3)'s case* (*supra*), within the period of 6 months, was frowned upon by the Hon'ble Supreme Court in the case of '*State of Karnataka & others Vs. M.L.Kesari & others*' reported in (2010) 9 SCC 247 in the following manner:-

7. It is evident from the above that there is an exception to the general principles against "regularisation" enunciated in Umadevi (3), if the following conditions are fulfilled:

(i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years.



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(ii) The appointment of such employee should not be illegal, even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive selection, such appointments are considered to be irregular.

8.Umadevi (3) casts a duty upon the Government or instrumentality concerned, to take steps to regularise the services of those irregularly appointed employees who had served for more than ten years without the benefit or protection of any interim orders of courts or tribunals, as a one-time measure. Umadevi (3) directed that such one-time measure must be set in motion within six months from the date of its decision (rendered on 10-4-2006).



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9. The term “one-time measure” has to be understood in its proper perspective. This would normally mean that after the decision in Umadevi (3), each department or each instrumentality should undertake a one-time exercise and prepare a list of all casual, daily-wage or ad hoc employees who have been working for more than ten years without the intervention of courts and tribunals and subject them to a process verification as to whether they are working against vacant posts and possess the requisite qualification for the post and if so, regularise their services.

10. At the end of six months from the date of decision in Umadevi (3), cases of several daily-wage/ad hoc/casual employees were still pending before courts. Consequently, several departments and instrumentalities did not commence the one-time regularisation process. On the other hand, some government departments or instrumentalities undertook the one-time exercise excluding several employees from consideration either on the ground that their cases were pending in courts or due to sheer oversight. In such circumstances, the employees who were entitled to be considered in terms of para 53 of



the decision in Umadevi (3), will not lose their right to be considered for regularisation, merely because the one-time exercise was completed without considering their cases, or because the six-month period mentioned in para 53 of Umadevi (3) has expired. The one-time exercise should consider all daily-wage/ad hoc/casual employees who had put in 10 years of continuous service as on 10-4-2006 without availing the protection of any interim orders of courts or tribunals. If any employer had held the one-time exercise in terms of para 53 of Umadevi (3), but did not consider the cases of some employees who were entitled to the benefit of para 53 of Umadevi (3), the employer concerned should consider their cases also, as a continuation of the one-time exercise. The one-time exercise will be concluded only when all the employees who are entitled to be considered in terms of para 53 of Umadevi (3), are so considered.

11. The object behind the said direction in para 53 of Umadevi (3) is twofold. First is to ensure that those who have put in more than ten years of continuous service without the protection of any interim orders of courts or tribunals, before the date of decision in Umadevi (3) was rendered, are considered for



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regularisation in view of their long service. Second is to ensure that the departments/instrumentalities do not perpetuate the practice of employing persons on daily-wage/ad hoc/casual basis for long periods and then periodically regularise them on the ground that they have served for more than ten years, thereby defeating the constitutional or statutory provisions relating to recruitment and appointment. The true effect of the direction is that all persons who have worked for more than ten years as on 10-4-2006 [the date of decision in Umadevi (3) without the protection of any interim order of any court or tribunal, in vacant posts, possessing the requisite qualification, are entitled to be considered for regularisation. The fact that the employer has not undertaken such exercise of regularisation within six months of the decision in Umadevi (3) or that such exercise was undertaken only in regard to a limited few, will not disentitle such employees, the right to be considered for regularisation in terms of the above directions in Umadevi (3) as a one-time measure.

31. Similarly, ***Umadevi (3)'s case (supra)*** was again elaborately dealt with and after placing reliance on ***M.L.Kesari's case (supra)***, the



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Hon'ble Supreme Court in the case of '*Amarkant Rai Vs. State of Bihar & others*' reported in (2015) 8 SCC 265, had directed for regularization of the daily wagers therein, in the following manner:-

..... "10 [Ed. : Para 10 corrected vide Official Corrigendum No. F.3/Ed.B.J/20/2015 dated 20-4-2015.] . As noticed earlier, the case of the appellant was referred to a three-member Committee and the three-member Committee rejected the claim of the appellant declaring that his appointment is not in consonance with the ratio of the decision laid down by this Court in *Umadevi (3)* case. In *Umadevi (3)* case, even though this Court has held that the appointments made against temporary or ad hoc are not to be regularised, in para 53 of the judgment, it provided that irregular appointment of duly qualified persons in duly sanctioned posts who have worked for 10 years or more can be considered on merits and steps to be taken as a one-time measure to regularise them. In para 53, the Court observed as under: (SCC p. 42)

"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V. Narayanappa, R.N. Nanjundappa* and *B.N. Nagarajan* referred to



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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 abovereferred 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



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already made, but not sub judice, 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.”

The objective behind the exception carved out in this case was to permit regularisation of such appointments, which are irregular but not illegal, and to ensure security of employment of those persons who had served the State Government and their instrumentalities for more than ten years.

11. Elaborating upon the principles laid down in Umadevi (3) case and explaining the difference between irregular and illegal appointments in State of Karnataka v. M.L.Kesari, this Court held as under : (M.L. Kesari case, SCC p. 250, para 7)

“7. It is evident from the above that there is an exception to the general principles against ‘regularisation’ enunciated in Umadevi (3), if the following conditions are fulfilled:



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(i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years.

(ii) The appointment of such employee should not be illegal, even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive selection, such appointments are considered to be irregular. "..."



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32. There are several other decisions in the same lines, wherein *Umadevi (3)'s case (supra)* was referred to and yet regularization was ordered by distinguishing the ratio in *Umadevi (3)'s case (supra)*, including the judgments in '*State of Punjab & others Vs. Jagjit Singh & others*' reported in (2017) 1 SCC 148, '*Direct Recruit Class II Engineering Officers' Association Vs. State of Maharashtra & others*' reported in (1990) 2 SCC 715, etc.

33. Thus, being guided by all the aforesaid precedents, distinguishing the general *ratio decidendi* in *Umadevi (3)'s case (supra)* and yet facilitating for regularization of the daily wagers/adhocs/part-timers, predominantly on the ground of their continuous long and uninterrupted service against a clear public requirement, we have no difficulty to reject the objections of the learned Additional Solicitor General that *Umadevi (3)'s case (supra)* would act as an embargo to the claim of the DRLs for regularization.

34. To sum up, in *Bijli Mazdoor Sangh's case (supra)*, it was held that the industrial adjudicator can modify the relief for granting



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regularization given in the fact situation covered by what was stated in paragraph 45 of *Umadevi (3)'s case (supra)*. In *Casteribe Rajya Parivahan Karmchari Sanghatana's case (supra)*, the Hon'ble Supreme Court while answering a self-imposed question, as to whether the provisions of the labour legislations like the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, being denuded of the statutory status by the Constitutional Bench decision in *Umadevi (3)'s case (supra)*, had held in the negative that *Umadevi (3)'s case (supra)* does not denude the Industrial and Labour Courts of their statutory power and that *Umadevi (3)'s case (supra)*, cannot be held to have overridden the powers of the Industrial and Labour Courts. Similarly, in '*Ajaypal Singh Vs. Haryana Warehousing Corporation*' reported in (2015) 6 SCC 321, distinction was made from the findings of the *Umadevi (3)'s case (supra)* that the provisions of the Industrial Disputes Act and the powers of the Industrial and Labour Courts provided therein, were not at all under consideration in *Umadevi (3)'s case (supra)*. In '*Oil and Natural Gas Corporation Limited Vs. Petroleum Coal Labour Union & others*' reported in (2015) 6 SCC 494, the plea of the Corporation that the reason for non-regularization was due to the appointment of the workmen without



following the due procedure under the Recruitment Rules and that their appointments were illegal, was rejected, for which purpose, reliance was placed in *Ajaypal Singh's case (supra)*.

35. Thus, in the light of the precedents of the Hon'ble Supreme Court set forth by us in the preceding portions, analyzing *Umadevi (3)'s case (supra)* and yet facilitating the claim of the part-timers/adhocs/daily wagers for regularization, we have no difficulty in holding that the daily rated labourers may be entitled for the claim of regularization/permanent absorption in the circumstances set forth by all these precedents.

36. We have extensively dealt with the objection of the learned Additional Solicitor General on the significance of *Umadevi (3)'s case (supra)* qua, facts of the present cases and had rejected the claim of JIPMER before us. However, without prejudice to the objections and counter objections of the parties, we had also raised a doubt with regard to the applicability of the ratio *decidendi* in *Umadevi (3)'s case (supra)*, which arises in the context of service law, to the present case which relates to industrial adjudication, predominantly under the labour laws.



37. The learned Additional Solicitor General placed reliance on ***Bijli Mazdoor Sangh's case (supra)*** and submitted that the concept of regularization is linked with Article 14 of the Constitution of India and the industrial adjudicator cannot do something which is violative of Article 14 and thus, the Hon'ble Supreme Court had extended the ratio laid down in ***Umadevi (3)'s case (supra)*** even for industrial adjudication. For easy reference, the relevant portion in the said judgment is extracted hereunder:-

.... “6. It is true as contended by learned counsel for the respondent that the question as regards the effect of the industrial adjudicators' powers was not directly in issue in *Umadevi (3) case*. But the foundational logic in *Umadevi (3) case* based on Article 14 of the Constitution of India. Though the industrial adjudicator can vary the terms of the contract of the employment, it cannot do something which is violative of Article 14. If the case is one which is covered by the concept of regularisation, the same cannot be viewed differently.

7. The plea of learned counsel for the respondent that at the time the High Court decided the matter, decision in *Umadevi (3) case* was not rendered is really of no



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consequence. There cannot be a case for regularisation without there being employee-employer relationship. As noted above the concept of regularisation is clearly linked with Article 14 of the Constitution. However, if in a case the fact situation is covered by what is stated in para 45 of Umadevi (3) case the industrial adjudicator can modify the relief, but that does not dilute the observations made by this Court in Umadevi (3) case about the regularisation.....”

38. Likewise, he referred to another judgment of the Hon’ble Supreme Court in ***Casteribe Rajya Parivahan Karmchari Sanghatana’s case (supra)*** and submitted that ***Umadevi (3)’s case (supra)*** will be applicable to even matters relating to industrial and labour adjudication.

39. In ***Bijli Mazdoor Sangh’s case (supra)***, though it was held that the industrial adjudicator cannot overcome the foundational logic in ***Umadevi (3)’s case (supra)***, which is based on Article 14 of the Constitution of India, an exception was made out in a case of a factual situation covered under paragraph 45 of ***Umadevi (3)’s case (supra)*** and



held that the industrial adjudicator can modify the relief.

40. In *Casteribe Rajya Parivahan Karmchari Sanghatana's case* (*supra*), it was clarified that *Umadevi (3)'s case* (*supra*) cannot denude the Industrial and Labour Courts of the statutory powers to order for permanency, when unfair labour practice on the part of the employer is established. The relevant portion of the order reads as follows:-

..... *“34. It is true that Dharwad Distt. PWD Literate Daily Wages Employees' Assn. arising out of industrial adjudication has been considered in Umadevi (3) and that decision has been held to be not laying down the correct law but a careful and complete reading of the decision in Umadevi (3) leaves no manner of doubt that what this Court was concerned in Umadevi (3) was the exercise of power by the High Courts under Article 226 and this Court under Article 32 of the Constitution of India in the matters of public employment where the employees have been engaged as contractual, temporary or casual workers not based on proper selection as recognised by the rules or procedure and yet orders of*



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their regularisation and conferring them status of permanency have been passed.

35.Umadevi (3) is an authoritative pronouncement for the proposition that the Supreme Court (Article 32) and the High Courts (Article 226) should not issue directions of absorption, regularisation or permanent continuance of temporary, contractual, casual, daily wage or ad hoc employees unless the recruitment itself was made regularly in terms of the constitutional scheme.

36.Umadevi (3) does not denude the Industrial and Labour Courts of their statutory power under Section 30 read with Section 32 of the MRTU and PULP Act to order permanency of the workers who have been victims of unfair labour practice on the part of the employer under Item 6 of Schedule IV where the posts on which they have been working exist. Umadevi (3) cannot be held to have overridden the powers of the Industrial and Labour Courts in passing appropriate order under Section 30 of the MRTU and PULP Act, once unfair labour practice on the part of the employer under Item 6 of Schedule IV is established.....”



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41. The aforesaid extract is self-explanatory. This position was further clarified in *Ajaypal Singh's case (supra)*, which distinguished *Umadevi (3)'s case (supra)* and pointed out the absence of the consideration of the provisions of the Industrial Disputes Act, 1947 and the powers of the Industrial and Labour Courts in *Umadevi (3)'s case (supra)*. In the said judgment, several provisions of the Industrial Disputes Act were referred to and held that when some of these provisions are violated, the employer would be deemed to have indulged in unfair labour practice and thus, the decision in *Umadevi (3)'s case (supra)* may not be an embargo.

The relevant portion of the aforesaid judgment reads as under:-

..... “17. In *Umadevi case (3)* this Court held 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 of India. The provisions of the Industrial Disputes Act and the powers of the Industrial and Labour Courts provided therein were not at all under



consideration in Umadevi case (3). The issue pertaining to unfair labour practice was neither the subject-matter for decision nor was it decided in Umadevi case (3).

18. We have noticed that the Industrial Disputes Act is made for settlement of industrial disputes and for certain other purposes as mentioned therein. It prohibits unfair labour practice on the part of the employer in engaging employees as casual or temporary employees for a long period without giving them the status and privileges of permanent employees.

19. Section 25-F of the Industrial Disputes Act, 1947 stipulates conditions precedent to retrenchment of workmen. A workman employed in any industry who has been in continuous service for not less than one year under an employer is entitled to benefit under the said provision if the employer retrenches the workman. Such a workman cannot be retrenched until he/she is given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice apart from compensation which shall be equivalent to fifteen days' average pay for every



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completed year of continuous service or any part thereof in excess of six months. It also mandates the employer to serve a notice in the prescribed manner on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette. If any part of the provisions of Section 25-F is violated and the employer thereby, resorts to unfair trade practice with the object to deprive the workman with the privilege as provided under the Act, the employer cannot justify such an action by taking a plea that the initial appointment of the employee was in violation of Articles 14 and 16 of the Constitution of India.

20. Section 25-H of the Industrial Disputes Act relates to re-employment of retrenched workmen. Retrenched workmen shall be given preference over other persons if the employee proposes to employ any person.

21. We have held that the provisions of Section 25-H are in conformity with Articles 14 and 16 of the Constitution of India, though the aforesaid provisions (Articles 14 and 16) are not attracted in the matter of re-employment of retrenched workmen in a private industrial establishment and undertakings. Without giving any specific reason to that effect at the time of



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retrenchment, it is not open to the employer of a public industrial establishment and undertaking to take a plea that initial appointment of such workman was made in violation of Articles 14 and 16 of the Constitution of India or the workman was a back door appointee.....”

42. Following *Ajaypal Singh’s case (supra)*, the judgment in *ONGC Ltd.,’s case (supra)* came to be pronounced, by distinguishing *Umadevi (3)’s case (supra)* and excluding industrial adjudication from the purview of the ratio laid down therein. The portion of such pronouncement reads thus:-

..... “31. “.....*It is the contention of the learned Senior Counsel on behalf of the Corporation that the services of the workmen concerned cannot be regularised as their appointment was originally and initially through contractors and thereafter, without following any procedure of selection and appointment as per the Recruitment Rules and therefore, the same is illegal by placing reliance on the decision of this Court in para 43 of Umadevi (3) case. Further, this Court in Ajaypal Singh v. Haryana Warehousing Corpn. opined that when a workman is initially*



appointed in violation of Articles 14 and 16 of the Constitution of India, then the employer at the time of re-employment of the retrenched workman cannot take the plea that the initial appointment was in violation of the abovementioned provisions. The relevant paragraph of Ajaypal Singh is extracted hereunder: (SCC p. 329, para 17)

17. “...The provisions of the Industrial Disputes Act and the powers of the Industrial and Labour Courts provided therein were not at all under consideration in Umadevi (3) case. The issue pertaining to unfair labour practice was neither the subject-matter for decision nor was it decided in Umadevi (3) case.”

The plea of the Corporation that the reason for not regularising the workmen concerned under the Certified Standing Orders of the Corporation is allegedly due to the fact that the appointment of the workmen concerned was made without following due procedure under the Recruitment Rules and that their appointments were illegal. This plea cannot be accepted by us in view of the legal principle laid down by this Court in the above decision, wherein it is clearly laid down that the Corporation cannot deny



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the rights of the workmen by taking the plea that their initial appointment was contrary to Articles 14 and 16 of the Constitution.....”

43. We have now appraised that the decision in ***ONGC Ltd.,’s case*** (*supra*) has been referred to a Larger Bench in the year 2020 and the final decision is yet to be taken therein. Be that as it may, we have not been informed of any interim orders in the case of reference to preclude us from rendering our views, in the light of the other decisions of the Hon’ble Supreme Court referred above.

44. The final objections of the learned Additional Solicitor General was that in the absence of any sanctioned post and more particularly, when these DRLs were all appointed either irregularly or illegally, without following the due procedures of appointment, the High Court, in exercise of its powers under Article 226 of the Constitution of India, may not possess the power to create a post, which powers vest with the Government and that the power of judicial review cannot be exercised in such matters. For such a proposition, he placed reliance on ***Umadevi (3)’s case*** (*supra*), ***‘Official Liquidator Vs. Dayanand & others*** reported in ***(2008) 10 SCC 1***



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and '*Union of India Vs. Pushpa Rani & others* reported in (2008) 9 SCC 242.

45. We are conscious of this principle, which has been time and again reiterated by the Hon'ble Supreme Court, in several of its decisions, apart from the ones cited before us. In *Umadevi (3)'s case (supra)*, the Constitution Bench adverted its attention to financial implications of creation of extra posts and held that the Courts should not pass orders which impose unwarranted burden on the State and its instrumentalities by directing creation of particular number of posts for absorption of employees appointed on adhoc or temporary basis or as daily wagers. Similar views were also expressed in *Dayanand's & Pushpa Rani's cases*. However, in all these decisions, the Hon'ble Supreme Court had made riders by holding that the power of the judicial review can be exercised in matters when it is shown that the action of the employer is contrary to any constitutional or statutory provisions or is patently arbitrary or vitiated by malafides.



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46. In the instant case, after the authoritative pronouncement of *Umadevi (3)'s case (supra)*, the Union and State Governments were mandated to regularize the services of irregular appointees as a one-time measure within 6 months from the date of the decision. The Union Territory, though had been utilizing the services of the DRLs for the perennial work for more than a decade, have failed to exercise the mandate of the Constitutional Bench. Though JIPMER was conscious of the fact that the nature of work extracted from the DRLs were perennial and not sporadic, had neither initiated steps to regularize their services as mandated in *Umadevi (3)'s case (supra)* nor had it taken effective steps to address the Union Territory, for creation of such posts in order to accommodate them. These flaws go to the root of the matter, violating the principles of equality, apart from depriving the DRLs' right to livelihood and dignity. These inactions on the part of JIPMER is not only patently arbitrary, but also has affected the constitutional rights of the DRLs. In this background, this Court would be justified in exercising its power of judicial review, which is an exception in all these decisions cited by the learned Additional Solicitor General.



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47. The learned Single Judge, in the order impugned before us, had held that there was no unfair labour practice adopted by JIPMER and thus, had overruled the findings of CGIT and thus, allowed the Writ Petition. Having rendered a detailed discussion, as to why JIPMER was not justified in denying regularization to the DRLs and the non-applicability of the ratio laid down in *Umadevi (3)'s case (supra)*, we do not endorse the order passed in the Writ Petition.

48. Though we approve the findings in the Award of the CGIT in I.D.No.5 of 2014 dated 19.07.2017, we do not endorse the direction to the JIPMER in paragraph 18 of the Award, to regularize the DRLs who have completed 5 years of service, as on 05.03.2012. In the light of our discussion and the several judgments of the Hon'ble Supreme Court, these DRLs would be entitled for regularization of their services on completion of 10 years of their service from their initial engagement in the Group-D posts. Since almost all these DRLs are continuing their services till date, the total period of their services shall be calculated from the date of their initial absorption till the date of pronouncement of this judgment, for the purpose of calculating the 10 years period.



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49. In fine, the order passed by this Court in W.P.No.29865 of 2017 dated 31.10.2023, is set aside. The direction in the Award of the Central Government Industrial Tribunal-cum-Labour Court, Chennai, in I.D.No.5 of 2014 dated 19.07.2017, is modified as follows:-

(a) The concerned respondents herein are directed to regularize all the DRLs, who are either members of JIPMER Hospital Employees Union in W.A.No.3187 of 2023 or individual appellants in W.A.No.222 of 2025, on completion of their 10 years service, from the date of their initial engagement in the Group-D posts till the date of this judgment.

(b) The arrears of pay due on account of such regularization, shall be paid atleast within a period of three (3) months from the date of receipt of a copy of this judgment, in default of which, the defaulted arrears of amount shall carry interest at the rate of 6% p.a.



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50. With the above directions, these Writ Appeals stand partly allowed. No costs. Connected miscellaneous petitions are closed.

[M.S.R, J.]

[R.S.V, J.]

16.12.2025

Index: Yes

Speaking order

Internet: Yes

Neutral Citation: Yes

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Note: Issue Order Copy Today.



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- To
- 1.The Director,
Jawaharlal Institute of Post Graduate
Medical Education and Research,
Puducherry.
 - 2.The Presiding Officer,
Central Government Industrial
Tribunal-cum-Labour Court,
1st Floor, 'B' Wing, Shastri Bhawan,
26, Haddows Road, Chennai – 600 006.
 - 3.The Government of India,
Ministry of Labour and Employment,
SHRAM Shakti Bhavan, Rafi Marg,
New Delhi – 110 001.
 - 4.The Government of India,
Ministry of Health and Family Welfare,
New Delhi – 110 001.
 - 5.The President,
JIPMER Hospital Employees Union
Room No.314, 3rd Floor, Administrative Block,
Puducherry – 605 006.



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W.A.Nos.3187 of 2023 & 222 of 2025

M.S.RAMESH, J.
and
R. SAKTHIVEL, J.

Sni

common judgment made in
W.A.Nos.3187 of 2023 & 222 of 2025

16.12.2025