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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-12018-2021 (O&M)
DECIDED ON:02.12.2025

KRISHNA DEVI

.....PETITIONER

VERSUS

STATE OF HARYANA AND ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ankur Goyat , Advocate and
Mr. Ramesh Goyat, Advocate for the petitioners.

Mr. RD Sharma DAG, Haryana

SANDEEP MOUDGIL, J (ORAL)

Prayer:

1. The petitioner has approached this Court under Article 226 of the Constitution of India praying for a direction to the respondents to regularize the petitioner services in terms of the Regularization Policies dated 01.10.2003 or 10.02.2004 (Annexure P-4) issued by the Government of Haryana or any other applicable policy, at par with other similarly situated employees, some of whom are stated to be junior to her.

Factual Matrix :

2. The petitioner was initially engaged as a Sewer Helper (Group-D) with the respondent-department at Sonapat Division on daily wage basis on 07.01.1997. She continued working till her services were terminated in an alleged arbitrary manner on 01.03.2011. Aggrieved, she raised an industrial dispute, and

the Labour Court, vide award dated 07.04.2016 (Annexure P-1), held her termination to be illegal and ordered her reinstatement with continuity of service and 50% back wages. The writ petition filed by the department challenging the said award, CWP No. 7073 of 2017, was dismissed by this Court on 03.04.2017 (Annexure P-2). In compliance, the petitioner was reinstated w.e.f. 01.08.2017 and has since been serving with the respondent-department.

3. Claiming that she had completed qualifying service under the Regularization Policies dated 01.10.2003 and 10.02.2004 (Annexure P-3 and P-4), and asserting parity with other similarly situated employees who had been regularized, the petitioner sought regularization. Her claim was denied on the grounds that the policies stood withdrawn, that she had allegedly worked as a part-time sweeper, and that her appointment was not in accordance with constitutional recruitment procedure.

Contentions:

On behalf of the petitioner:

4. The learned counsel for the petitioner contends that the petitioner was appointed as a Sewer Helper (Group-D) on daily wage basis on 07.01.1997 and continuously worked with the respondent-department till her illegal termination on 01.03.2011. It is submitted that the said termination was set aside by the learned Labour Court *vide* award dated 07.04.2016, whereby the petitioner was directed to be reinstated with continuity of service and 50% back wages. The said award was upheld by this Court in CWP No. 7073 of 2017 decided on 03.04.2017 and, therefore, the findings regarding illegal termination and continuity of service have attained finality. It is argued that once continuity of service stands granted by a

judicial order, the respondents are estopped from disputing the length and nature of the petitioner's service.

5. It is further contended that the petitioner has rendered more than 24 years of continuous service and fully satisfies the eligibility conditions prescribed under the regularization policies dated 01.10.2003 and 10.02.2004 issued by the Government of Haryana. The petitioner also relies upon the fact that several similarly situated daily wage Group-D employees, even juniors to the petitioner, have already been regularized by the respondent-department *vide* office orders dated 29.09.2014 and 07.10.2014. Thus, the denial of similar benefit to the petitioner amounts to hostile discrimination and is violative of Articles 14 and 16 of the Constitution of India.

6. The petitioner further contends that the withdrawal of the regularization policies in the year 2007 cannot defeat her claim since she had already completed the requisite qualifying service while the policy was in force and her claim stood frustrated only because of her illegal termination. Reliance is placed upon the judgments of this court in CWP No. 5908 of 2015 decided on 14.05.2018 (Annexure P-9), affirmed in LPA No. 1271 of 2018 on 18.08.2018 (Annexure P-8), to submit that employees similarly situated to the petitioner have been granted regularization despite termination and reinstatement through Labour Court awards.

On behalf of the respondents:

7. Per contra, the learned State counsel has opposed the writ petition while contending that the petitioner has no legal or enforceable right to seek regularization. It is argued that the petitioner was not appointed in accordance with the constitutional scheme of recruitment and her engagement was without

advertisement or selection process, making her a back-door entrant. Therefore, in view of the Constitution Bench judgment of the Supreme Court in “*Secretary, State of Karnataka Vs. Uma Devi (2006) 4 SCC 1*”, the petitioner cannot claim regularization as a matter of right.

8. It is further contended that the regularization policies dated 01.10.2003 and 10.02.2004 were rescinded by the Government of Haryana *vide* notification dated 13.04.2007. It is further submitted that the this Court in CWP No.17206 of 2014 (Yogesh Tyagi & Another Versus State of Haryana & others) had stayed the operations of regularization policies observing that the impugned policies run contrary to the mandate as enshrined in Uma Devi’s case and as such this Court quashed the regularization policy of 18.06.2014 against which the State Government preferred SLP before the Supreme Court and interim relief of *status quo* has been granted and the SLP is still pending before the Supreme Court of India.

9. Additionally, the counsel for the respondent have asserted that the petitioner had not worked continuously as a full-time daily wager and had mostly worked as a part-time sweeper working merely three hours per day, and hence does not fulfill the eligibility criteria of the policies relied upon as the employees who were regularized by office were full-time daily wagers and their cases are entirely different from that of the petitioner.

10. Heard.

Analysis:

11. Having heard the submissions advanced by counsel for both parties and perusing the material placed on record, it is the opinion of the court that the present petition may be examined within the dimensions of the following issues framed by this court:

Issues for Determination

1. Whether the award of the Labour Court dated 07.04.2016, as affirmed by this Court on 03.04.2017, confers upon the petitioner a legally enforceable right of continuity of service for all consequential purposes, including regularization?
2. Whether the petitioner, having completed the requisite length of service while the Regularization Policies dated 01.10.2003 and 10.02.2004 were in force, possesses a vested or legitimate entitlement to be considered for regularization ?
3. Whether the denial of regularization to the petitioner, despite the regularization of other similarly situated employees, amounts to hostile discrimination in breach of Articles 14 and 16 of the Constitution of India?
4. Whether the respondents can lawfully invoke the principle laid down in Secretary, State of Karnataka v. Uma Devi (2006) 4 SCC 1 to deny regularization in a case arising from a long continuation of service protected by a judicial award and parity-based claim?

Issue No. 1 – Whether the award of the Labour Court dated 07.04.2016, as affirmed by this Court on 03.04.2017, confers upon the petitioner a legally enforceable right of continuity of service for all consequential purposes, including regularization?

Effect of the Labour Court award

12. The Labour Court clearly directed reinstatement with continuity of service *vide* award dated 07.04.2016 (Annexure P-1), which was subsequently affirmed by this Court in CWP No. 7073 of 2017 on 03.04.2017 (Annexure P-2).

13. It is now beyond the pale of controversy that where the Court decides the termination of an employee unlawful, it is empowered to hold that the

workman, in the eye of law, never ceased to be in service and the employer's act of severance to be legally infirm and the natural and necessary consequence is the restoration of the workman to his post, together with unbroken continuity of service. In such circumstances, the employer's action is nothing short of an unjust expropriation of the workman's right to labour and his rightful livelihood. Therefore the law intervenes not merely to correct the wrong, but to restore the equilibrium which the employer's unlawful act has disturbed.

14. Continuity is not a symbolic relief it is a legal restoration of service status. The Supreme Court in *Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya, (2013) 10 SCC 324*, held that once reinstatement with continuity is granted, the employee is deemed to have remained in uninterrupted service for all service-related benefits while holding that,

“33. The propositions which can be culled out from the aforementioned judgments are:

i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.”

This pronouncement at its heart is based on the doctrine of *restitutio ad integrum*, which commands that when an illegal act of the employer is undone by a court of law, the employee must be restored to the fullest extent possible to the position she would have occupied but for such illegality. This doctrine, though rooted in civil jurisprudence, is now deeply embedded in service law and labour adjudication.

15. Further, the concept of deemed continuity as evolved in service jurisprudence mandates that continuity once judicially declared cannot be diluted by executive pleadings or administrative reclassification. The respondents' attempt to now contend that the petitioner worked only as a “part-time sweeper” for

significant periods is not merely an afterthought but a collateral impeachment of a binding judicial determination, which is impermissible in law.

16. Therefore, the respondents' attempt to now classify the petitioner's service as fragmented or part-time is a direct challenge to judicial finality. They cannot be permitted to indirectly nullify a binding award passed by a judicial body. The petitioner must be treated as having continued uninterrupted service from the year 1997. Thus, the first issue is answered in favour of the petitioner.

Issue No. 2 – Whether the petitioner, having completed the requisite length of service while the Regularization Policies dated 01.10.2003 and 10.02.2004 were in force, possesses a vested or legitimate entitlement to be considered for regularization ?

17. The policy dated 01.10.2003, issued *vide* Notification No. G.S.R. 24/Const./Art.309/2003, read with the amendment dated 10.02.2004 (G.S.R. 5/Const./Art.309/2004), was a comprehensive scheme for regularization of Group C and Group D employees working on adhoc, contract or daily wage basis in Haryana. The relevant clause concerning daily wage Group-D employees reads thus:

“Only such daily wage employees who have completed three years' service on Group-D posts on 30th September 2003 and were in service on 30th September 2003 shall be regularised against their respective Group-D posts, provided they fulfill the requisite qualification... Provided further that they have worked for a minimum period of 240 days in each year and if the break in service of a daily wage employee has been caused for no fault attributable to him, such break period should be condoned...”

18. It is true that, pursuant to the judgment rendered in *Uma Devi (supra)*, the State issued Notification dated 13.04.2007, rescinding earlier regularization notifications, including G.S.R. 24/2003 and G.S.R. 5/2004.

19. However, a perusal of the said judgment makes it abundantly clear that certain guidelines were issued to regularize the services of those employees, who were taken into job on daily wage/adhoc/contractual basis, but at the same time proceeded on to observe that only in a contingency, an adhoc appointment can be made in a permanent vacancy, but the same should soon be followed by a regular recruitment and that appointments to none available posts should not be taken not for regularization. It has also further says that the cases directing regularization, wherein the employees have been permitted to work for some period should be absorb without really laying down any law to that effect, after discussing the constitutional scheme for public employment.

20. In the instant case, admittedly the petitioner has been working since 1997 i.e., more than 2 decades as on date, but for one or the other reason taking excuses, the respondent-State has absolved itself from the duty as a socialistic welfare State, which otherwise tantamounts to unfair labour practice or unfair means on its part to avail the services of such petitioners to their own advantage, who have devoted more than 60 % of life span for a meagre amount, which may not be even sufficient to maintain themselves what to talk of their dependents in the family.

21. After the judgment of *Uma Devi (supra)*, the Supreme Court in *Union of India and others vs. Vartak Labour Union, 2011(2) SLR 414*, quashed the judgment delivered by a Division Bench of the Gauhati High Court wherein a

direction was issued to regularize employees of Union who had put in about 30 years of service with the BRO. However, the Supreme Court gave a directions to the Union of India to consider enacting an appropriate regulation/scheme for absorption and regularization of the services of the casual workers engaged by BRO for execution of its on-going project.

22. Even a Division Bench of our own High Court in ***Union of India and others vs. Surinder Pal and others, 2012(3) SLR 433*** affirmed the decision of the Single Bench, who gave direction to the respondents to frame a scheme in terms of the directions issued by Supreme Court in ***Vartak Labour Union's*** case (supra).

23. In ***State of U.P. and others Vs. Putti Lal (2006) 9 SCC 337*** , the employees claimed regular wages keeping in view the fact that they have been working on daily wage basis for number of years. The High Court allowed the writ petition holding that all daily wage workers, who have rendered 10 years of service should be regularized by making appropriate scheme. In terms of proviso to Article 309 of the Constitution, rules were framed for regularization of daily wage employees. In the aforesaid case, a three Judges' Bench of Supreme Court upheld the order that daily wagers discharging the similar duties as those in the regular appointment would be entitle to draw at the minimum of pay scale being received by their counter parts and would not be entitled to any other allowances or increment so long as they continue as daily wager. After returning such finding, the Court observed as under:

"6. ... The fact that the employees have been allowed to continue for so many years indicates the existence or the necessity for having such posts. But still it would not be open for the Court to indicate as to how many posts would be created for the absorption of these daily-wage workers. Needless to mention that the appropriate authority will consider the case of these daily-wagers sympathetically who have

discharged the duties for all these years to the satisfaction of their authority concerned. So far as the salary is concerned, as we have stated in the case of the State of Uttar Pradesh, a daily wager in the State of Uttaranchal would be also entitled to the minimum of the pay scale as is available to his counterpart in the Government until his services are regularized and he is given regular scale of pay."

24. Support may also be drawn from **“Ram Rattan & ors. vs. State of Haryana & ors.”** in **CWP-34585-2019** decided on 19.10.2023, wherein this court directed consideration and regularization in terms of the 2003 regularization policy even when the State relied upon **Uma Devi (supra)** to deny benefits to daily wage employees observing that the intent of the apex court was to protect employees from exploitation and that public employment is a facet of right to equality envisaged under Article 16 of the Constitution and that State is although a model employer, its right to create posts and recruit people, therefore, emanates from the statutes or statutory rules and that non regularization into service of such part-time employees who have put in their whole life in the service of the respondent, would tantamount to violation of fundamental rights of equality before law and equality of opportunity in matters relating to employment under the State, as enshrined under Article 14 & 16(1) of the Constitution. Following directions were issued by this Court:-

“(32). In addition to the above, even principle of natural justice, too demand that the petitioners cannot be denied the benefit of regularization of services when their similarly placed employees have been granted the said benefit.

(33). Accordingly, the respondents are directed to consider the case of the petitioners for regularization of service in view of the policy dated 01.10.2003 as amended on 10.02.2004 issued by the Government of Haryana and to pass necessary orders regularizing their services, within a period of one month from the date of receipt of certified copy of this order. The petitioners shall also be entitled to all the benefits of regularization and consequential relief to which they are eligible including the arrears of salary.

(34). This case is also being peculiar wherein Class-IV employees are forced to undergo multiple round of litigation for their claim to which

they became eligible in the year 2003 and are fighting for their legal rights for two decades, this Court cannot close its eyes to the pain and sufferings and the harassment with which this strata of society has been dealt with, needs to be compensated, though cannot be done so by any means after such a long number of years, the respondent No.3 shall pay 6 % interest per annum on the arrears from the date it became due till the date of its realization to which the petitioners are found entitled on regularization into service.”

25. These judicial pronouncements make it abundantly clear that, although the notification dated 18.06.2014 was quashed by this Court in the ***Yogesh Tyagi case (supra)*** and the matter is currently pending before the Supreme Court, the rights that had already accrued to the employees including their legitimate entitlement to regularisation under the now-rescinded policies cannot be extinguished merely because those one-time measure policies were struck down. The Court has repeatedly emphasised that the State must not, through an arbitrary exercise of its constitutional powers, inflict injustice upon members of the lower strata of society who have served it for many years and would otherwise suffer undue hardship.

26. This court is also sanguine of the jurisprudence emerging from *Uma Devi* (supra) and subsequent decisions of the Supreme Court reflects a clear intention to safeguard employees from exploitation. The Court has repeatedly underscored that governments should not perpetuate ad-hoc or contractual employment by issuing regularisation schemes at their convenience. Instead, as a one-time measure, only those employees who have completed ten years of continuous service are to be considered for regularisation. These directions must be understood in light of fundamental principles of legal interpretation, which require that the law be construed in a manner that protects the vulnerable and preserves the legitimate rights of employees. Individuals cannot be left to serve

indefinitely on daily-wage, contractual, work-charged, or part-time posts without a fair opportunity for regularisation.

Legitimate Expectation

27. Otherwise also, the withdrawal of a beneficial administrative scheme does not retrospectively wipe out accrued rights or legitimate expectation, especially when denial occurred due to illegal termination later corrected by judicial adjudication. In “***Union of India v. Hindustan Development Corporation, (1993) 3 SCC 499***”, the Supreme Court recognized legitimate expectation as part of constitutional fairness wherein it was held,

“29. This is a three-fold present : the present as we experience it, the past as a present memory and future as a present expectation. For legal purposes, the expectation cannot be the same as anticipation. It is different from a wish, a desire or a hope nor can it amount to a claim or demand on the ground of a right. However earnest and sincere a wish, a desire or a hope may be and however confidently one may look to them to be fulfilled, they by themselves cannot amount to an assertable expectation and a mere disappointment does not attract legal consequences. A pious hope even leading to a moral obligation cannot amount to a legitimate expectation. The legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom or an established procedure followed in regular and natural sequence. Again it is distinguishable from a genuine expectation. Such expectation should be justifiably legitimate and protectable. Every such legitimate expectation does not by itself fructify into a right and therefore it does not amount to a right in the conventional sense.

30. It has to be noticed that the concept of legitimate expectation in administrative law has now, undoubtedly, gained sufficient importance. It is stated that "Legitimate expectation" is the latest recruit to a long list of concepts fashioned by the courts for the review of administrative action and this creation takes its place beside such principles as the rules of natural justice, unreasonableness, the fiduciary duty of local authorities and "in future, perhaps, the principle of proportionately".

28. The petitioner’s entitlement under the Regularization Policies of 2003–2004 is reinforced by the well-established doctrine of *Accrued or Crystallised Rights*. Once an employee fulfills all the conditions of a policy while

it is in operation, the benefit is no longer contingent but becomes a vested entitlement which cannot be retrospectively defeated by subsequent administrative withdrawal. The petitioner having completed the qualifying service much prior to 30.09.2003, her right to be considered for regularization stood crystallised on that date.

Substantive Conditions for Regularization Policy

29. The Regularization Policy dated 01.10.2003, as amended on 10.02.2004, prescribes specific conditions for regularization of daily wage Group-D employees, namely:

- (i) engagement on a Group-D post;
- (ii) completion of three years' service as on 30.09.2003;
- (iii) being in service on 30.09.2003;
- (iv) possession of requisite qualification on the date of engagement or on 30.09.2003;
- (v) working for at least 240 days in each qualifying year and;
- (vi) condonation of breaks not attributable to the employee.

Each of these conditions stands fully satisfied in the present case.

30. It is undisputed that the petitioner was appointed as a Sewer Helper, a Group-D post, on daily wage basis on 07.01.1997. Thus, by 30.09.2003, the petitioner had already rendered more than six and a half years of service, far in excess of the minimum three years prescribed under the policy. The Labour Court, while adjudicating the industrial dispute, specifically recorded that the petitioner had worked continuously. Therefore conclusively establishes fulfillment of the "240 days per year" requirement.

31. As regards the condition of being "in service on 30.09.2003", the material placed on record states that the petitioner served as a part time sweeper

continuously till February 2011 thereby clarifying that the petitioner was indeed in service on 30.09.2003 and fulfills this condition as well for the purpose of being covered under the policy.

32. The argument raised by the respondent that the petitioner is a “back-door entrant” and therefore barred from regularisation under *Uma Devi (supra)* does not hold when viewed in light of the principles recognised in the subsequent cases of the Supreme court where they have clarified that *Uma Devi (supra)* cannot be applied in a mechanical manner to deny relief to employees who have worked for the State for long periods with its full knowledge and approval and the engagement has continued uninterrupted for years and the State has benefitted from that service throughout. It would be unjust to discard the employee solely because the initial appointment lacked a formal advertisement or selection process especially when this irregularity is attributable entirely to the employer.

33. The plea regarding breaks in service also cannot be sustained as the only interruption in service occurred due to the illegal termination dated 01.03.2011, which has already been set aside with continuity by virtue of the Labour Court award reinstating her back in service. The policy itself mandates that breaks not attributable to the employee shall be condoned. Once judicial continuity has been granted, such interruption stands obliterated in the eyes of law and cannot be used as a ground to defeat regularization.

34. Moreover, the material on record demonstrates that the petitioner has been continuously discharging duties of a perennial nature on a Group-D post and that several similarly situated employees in the same department have already been regularized. Once the State has applied the regularization policy to others

working on the same set of duties, it cannot selectively deny its applicability to the petitioner by raising the plea of non-sanctioned post at this belated stage.

35. In view of the undisputed date of initial engagement, the length of service, fulfillment of 240 days' work per year, the absence of any qualification-related disqualification, and the legal effect of continuity of service, this Court holds that the petitioner fulfills all substantive eligibility conditions prescribed under the Regularization Policies dated 01.10.2003 and 10.02.2004. Therefore the exclusion of the petitioner from regularization cannot be justified on the ground of non-fulfilment of policy criteria. Thus, the Issue No. 2 is also decided in favour of the petitioner

Issue No. 3 – Whether the denial of regularization to the petitioner, despite the regularization of other similarly situated employees, amounts to hostile discrimination in breach of Articles 14 and 16 of the Constitution of India?

Parity with Similarly Situated Employees

36. It is pertinent to note that the petitioner has placed on record material to show that several employees working on Group-D posts in the same department, performing identical duties and governed by the same policy framework, have been granted the benefit of regularization. The respondents, though admitting such regularization, seek to distinguish the petitioner on the basis of the nature of her engagement and the subsequent withdrawal of the policy. However, both these grounds, as already discussed, do not withstand legal scrutiny.

37. Equality before law requires that persons similarly situated must be treated alike. Any State action which suffers from arbitrariness is violative of

Article 14 of the Constitution. The Supreme Court in “*E.P. Royappa v. State of Tamil Nadu, (1974) 4 SCC 3*”, held that arbitrariness is the very negation of equality. Where a policy has been applied in favour of certain members of a class, its denial to another member of the same class, without any rational or intelligible basis, renders the action discriminatory. The respondents have not been able to point out any legally sustainable distinction between the petitioner and those who have already been regularized.

38. Moreover, the Apex court in “*State of Karnataka v. M.L. Kesari, (2010) 9 SCC 247*” while clarifying that the ratio laid in Uma Devi must not be misused to defeat legitimate claims under existing schemes held that,

“7. At the end of six months from the date of decision in Umadevi, 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, will not lose their right to be considered for regularization, merely because the one-time exercise was completed without considering their cases, or because the six month period mentioned in para 53 of Umadevi has expired. The one-time exercise should consider all daily- wage/adhoc/those 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, but did not consider the cases of some employees who were entitled to the benefit of para 53 of Umadevi, 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, are so considered.”

39. This pronouncement squarely applies to the present case as the petitioner had completed more than 20 years of continuous service and all conditions for considering her for regularization stood fulfilled. Even then, excluding her from consideration, while extending regularization to others similarly situated, is precisely the mischief *M.L. Kesari (supra)* cautions against.

40. In view of the admitted fact that similarly situated employees have been extended the benefit of regularization, and in the absence of any valid distinguishing factor, the denial of the same benefit to the petitioner is clearly arbitrary and violative of Articles 14 and 16 of the Constitution of India.

“Part Time” status of petitioner

41. The distinction now sought to be drawn between the petitioner and similarly situated employees by the respondent on the specious ground of her alleged *part-time* status as she only worked for 3 hours per day is wholly misconceived. This characterization cannot be attributed to the petitioner herself as it was the State that unilaterally restricted her engagement to three hours a day, even while the functions she discharged were continuous, perennial, and indispensable to the institution. The State cannot first compel an employee into an artificially truncated slot and thereafter rely on that very truncation to deny her parity. The resulting discrimination is not merely factual it strikes at the very core of constitutional equality.

42. More importantly, after 24 years of uninterrupted, blemish-free service, the State cannot now take refuge in the label of “part-time” to deny regularization, particularly when the petitioner satisfies every requirement of the applicable policy. To suggest that a worker who has served the State for over two decades performing duties essential to its daily functioning can be denied the protection of regular status solely on account of a nomenclature imposed by the employer, is to elevate letter over spirit. Constitutional adjudication does not permit such an empty technicality.

43. In “**Jaggo v. Union of India 2025 All SCR 778**”, it was categorically observed by the apex court that,

“we find that the appellants’ long and uninterrupted service, for periods extending well beyond ten years, cannot be brushed aside merely by labelling their initial appointments as part-time or contractual. The essence of their employment must be considered in the light of their sustained contribution, the integral nature of their work, and the fact that no evidence suggests their entry was through any illegal or surreptitious route.”

44. Regularization, in these circumstances, is not a matter of benevolence but it flows inexorably from fairness, from precedent, and from the State’s own policy framework. Having enjoyed the petitioner’s services for twenty-four years, the State is estopped from turning around and disowning its obligations on the flimsiest of grounds. Such an approach would not only be arbitrary, but would also render the constitutional guarantee of equality a mere illusion. Owing to the discussion, this issue is answered in favour of the petitioner.

Issue No. 4 – Whether the respondents can lawfully invoke the principle laid down in Secretary, State of Karnataka v. Uma Devi (2006) 4 SCC 1 to deny regularization in a case arising from a long continuation of service protected by a judicial award and parity-based claim?

45. The respondents’ reliance on **Uma Devi (supra)** is fundamentally misplaced. The ratio in *Uma Devi* was directed at preventing courts from creating backdoor appointments or directing regularization in the absence of a policy framework. It was never intended to invalidate regularization processes consciously framed by the State itself or to deprive long-serving employees of benefits that similarly situated co-workers have already been granted.

46. This Court is conscious of the fact that the claim set forth by the petitioners before this Court has been sought in pursuance of Article 14 as well as

Article 16, wherein the facts become clearly distinguishable from the facts of Uma Devi's case (supra). The Supreme Court in ***Om Prakash vs. The State of West Bengal and Ors, in Civil Appeal No.420 of 2023 decided on 19.05.2023***, while discussing this very factual circumstance having discussed Uma Devi's case (supra) dealing with identical facts, as involved in the instant petition observed that non regularization into service of such employees would tantamount to violation of fundamental rights of equality before law and equality of opportunity in matters relating to employment under the State, as enshrined under Article 14 & 16(1) of the Constitution respectively.

47. Moreover, in the case of ***Jaggo (supra)***, it was observed by the Apex Court that the judgement of Uma Devi was not intended to defeat of the claim for regularisation of employees whose appointment was though irregular but not unlawful, it was a safeguard against illegal appointments, relevant extract if which is as under,

“20. It is well established that the decision in Uma Devi (supra) does not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment sought to prevent backdoor entries and illegal appointments that circumvent constitutional requirements. However, where appointments were not illegal but possibly "irregular," and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount.”

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.”

Thus, the invocation of *Uma Devi* is not merely untenable it is a selective and distorted reading of the judgment, divorced from the factual matrix and the subsequent clarifications by the Apex Court.

48. Further, the Model Employer Doctrine obligates the State to act fairly, consistently and with a sense of responsibility towards employees who have served it for long years. To deny consideration under an operative policy by citing *Uma Devi*, while simultaneously granting the very same benefit to others, would defeat this standard of conduct expected of the State. It is imperative for government departments to lead by example in providing fair and stable employment. 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.

49. Thus, the reliance placed by the respondents upon the judgment in *Uma Devi (supra)* to deny the claim of regularization of the petitioner hereby fails.

Conclusion:

50. In view of the discussion above, this Court holds that the petitioner satisfied the conditions of the regularization policy dated 01.10.2003 (as amended on 10.02.2004) during the period it was in force. The withdrawal of the said policies cannot defeat the petitioner's claim when similarly situated and even junior employees have been granted regularization by the respondents under the same policy framework or under subsequent schemes. It must not be forgotten that justice is not merely about technical legality but about ensuring that the constitutional promise of equality is lived in practice.

51. Accordingly, the respondents are directed to examine the petitioner's claim for regularisation strictly in accordance with the Government of Haryana's policy dated 01.10.2003, as amended on 10.02.2004, and to issue appropriate orders conferring regular status within *one month* from the date of receipt of a certified copy of this judgment. The petitioners shall also be entitled to all attendant benefits and consequential reliefs, including arrears of salary.

52. This Court cannot remain impervious to the prolonged hardship, indignity, and uncertainty endured by this vulnerable segment of the workforce. Though no measure can truly compensate for the years lost, justice demands at least a meaningful redress. Therefore, interest at the rate of 6% per annum is ordered on the arrears, from the date they fell due until their final payment, as a modest yet necessary acknowledgment of the petitioners' long-delayed rights.

53. All miscellaneous applications also stand disposed of accordingly.

54. The petition stands allowed in the aforesaid terms.

(SANDEEP MOUDGIL)
JUDGE

02.12.2025
anuradha

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