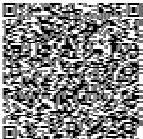


2025:PHHC:019739-DB



CWP-11626-2020 (O&M)
Date of Decision: 10.02.2025

Union of India and others

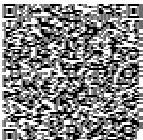
...Petitioners

Vs.

Ram Sanjiwan and another

...Respondents

2025:PHHC:019739-DB



CWP-27159-2016 (O&M)
Date of Decision: 10.02.2025

Union of India and others

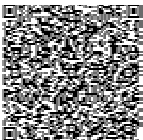
...Petitioners

Vs.

Ram Chander and another

...Respondents

2025:PHHC:019739-DB



CWP-19097-2016 (O&M)
Date of Decision: 10.02.2025

Union of India and others

...Petitioners

Vs.

Ganga Ram and another

...Respondents

**CORAM: HON’BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON’BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Arun Gossain, Sr. Panel Counsel
for the petitioners in CWP-11626-2020.

Ms. Puneeta Sethi, Senior Panel Counsel
for the petitioners in CWP-27159-2016 and CWP-19097-2016.

Mr. Ajay, Advocate for respondent No.1
in CWP-11626-2020.

Mr. Rohit Seth, Advocate for respondent No.1
in CWP-27159-2016.

Mr. D.R. Sharma, Advocate for respondent No.1
in CWP-19097-2016

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The issue involved in both the writ petitions is similar and accordingly, they are decided by way of this common judgment. Facts of CWP-11626-2020, are extracted for the sake of brevity.

2. Learned counsel appearing for the Union of India assails the order passed by the Central Administrative Tribunal, dated 29.10.2019, whereby the Tribunal passed the following directions:-

“In the wake of aforesaid discussion, this O.A. is partly allowed. The impugned order, Annexure A/17 is quashed and set aside. The respondents are directed to reconsider the issue and pass fresh order with due application of mind. Upon such consideration, if applicant is found entitled to benefit, then the arrears should be restricted to three years prior to filing of the O.A. However, the applicant would not be entitled to any benefit for the period he has remained out of job. The needful be done within a period of two months from the date of receipt of a copy of this order.”

3. Learned counsel submits that the writ petitioner was a part time gardener and he could not have been regularized. He relies on the judgment passed by the Hon’ble Supreme Court in **Union of India and others v. Ilmo Devi and another**, 2021 (4) SCT 312, wherein, the Hon’ble Supreme Court

taking into consideration the nature of employment of sweeper as part time employees held that they were not entitled to be regularized by relying on the regularization policy dated 30.06.2014.

Learned counsel submits that in the wake of said observations, the writ petitioner(s) too would not be entitled for regularization.

4. We have given our careful consideration to the submissions.

5. We find that the issue decided by the Hon'ble Supreme Court in Ilmo Devi case (supra) was different from the facts which have been noted by the Tribunal in the present case. It is noted that the writ petitioner(s) was appointed as part time Gardner in 1998. A scheme was introduced on 17.02.1988, which prescribed that those who are working as part time casual labourers and have served for 480 days in a period of two years, would be treated for the purpose of recruitment to have completed one year of service as full time casual labourer. The said scheme was invoked and directions of the Tribunal were upheld by the Andhra Pradesh High Court in Writ Petition No.17048 of 2000, titled as **The Post Master General v. Pampana Appalaraju & Others**, wherein directions were given to grant temporary status to part time casual labourers.

6. The writ petitioner(s) had earlier preferred OA before the Tribunal and in the earlier round of litigation, the Tribunal decided on 12.12.2012, to examine the case in the light of judgment passed in Pampana Appalaraju case (supra) and para No.53 of the judgment passed in the case of **Secretary, State of Karnataka and others vs. Uma Devi and others 2006 (4) SCC Page 1**, whereafter the matter was re-examined. However, when the representation was considered, the appellants rejected the claim of the writ petitioner(s) on the ground that his appointment was illegal, although, it was

held otherwise in the earlier round of litigation. In view thereto, the CAT directed as above.

7. However, aggrieved thereto, again a writ petition has been filed before us. We find that the order passed by the Tribunal directs the appellants to take a decision afresh and there can be no challenge to such a decision as the earlier decision taken was found to be perverse treating the writ petitioner(s) appointment as illegal. Although there was no such finding of fact available with the writ petitioner(s).

8. We also notice that recently the Hon'ble Supreme Court in the case of **Jaggo v. Union of India and others (SC) 2024 INSC 1034**, wherein, the Hon'ble Apex Court has made the following observations after considering the entire law relating to regularization:-

“26. While the judgment in Uma Devi (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between “illegal” and “irregular” appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities.

Government departments often cite the judgment in Uma Devi (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.

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

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

i. The termination orders dated 27.10.2018 are quashed;

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

9. In view of the above, we direct the appellant(s) to take a fresh decision and also take into consideration the law as laid down by the Hon’ble Apex Court in the case of **Jaggo case** (supra) and **Shripal and another v. Nagar Nigam, Ghaziabad, Civil Appeal Nos.8158-8179 of 2024**, decided on 31.01.2025.
10. The writ petition(s) are accordingly disposed of. The decision shall now be taken within one month positively.
11. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

10.02.2025
rajesh

- | | | |
|-------------------------------|---|--------|
| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable? | : | Yes/No |