

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209 (7 cases)

CWP-20096-2021
Date of Decision: 14.11.2025

ARVIND RANA AND OTHERS

...Petitioners

Versus

UNION OF INDIA AND ORS.

...Respondents

And

Sr. No.	Case No.	Petitioner(s)	Respondent(s)
2.	CWP-11021-2023	Prabhat Kiran and Ors.	Union of India and Ors.
3.	CWP-22687-2023	Anchal Garg and Ors.	Union of India and Ors.
4.	CWP-2425-2023	Surinder Kumar and Ors.	Union of India and Ors.
5.	CWP-3561-2022	Anil Kumar Vashist and Ors.	Union of India and Ors.
6.	CWP-3812-2022	Ujagar Singh and Ors.	Union of India and Ors.
7.	CWP-8485-2023	Inderjit Kaur and Ors.	Union of India and Ors.

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Gurminder Singh, Senior Advocate with
Ms. Harpriya Khaneka, Advocate for the petitioners
(in CWP No.20096 of 2021 and CWP No.3812 of 2022)

Mr. D.S. Patwalia, Senior Advocate with
Mr. Ayush Gupta, Advocate for the petitioners
(in CWP No.3561 of 2022)

Mr. Mahipal S. Yadav, Advocate for petitioner No.69
(in CWP-20096-2021)

Mr. Kulbir Singh Sekhon, Advocate for petitioners
(in CWP-8485-2023)

Mr. Akshay Bhan, Sr. Advocate with
Mr. A.S. Rawaley, Advocate for the petitioners
(in CWP-11021-2023)

Mr. Dinesh Kumar Jangra, Advocate
for the petitioners (*in CWP Nos.2425 and 22687 of 2023*)

Mr. Satya Pal Jain, Additional Solicitor General of India
(through video conferencing) with
Mr. Pankaj Gupta, Senior Panel Counsel
(*through video conferencing*)
for Union of India-respondents No.1 & 2
(*in CWP No.2425 of 2023*) and with
Mr. Himanshu Malik, Senior Panel Counsel
for Union of India-respondent (*in CWP No.11021 of 2023*)

Mr. Anil Chawla, Senior Panel Counsel
for Union of India-respondent (*in CWP No.20096 of 2021,*
CWP No.3561 of 2022 and CWP No.3812 of 2022)

Mr. Ashutosh Bhardwaj, Advocate for
Mr. Parvesh K. Saini, Senior Panel Counsel
for the respondent-Union of India
(*in CWP No.22687 of 2023*)

Mr. Lokesh Chander Aggarwal, Advocate
for U.T., Chandigarh (*in CWP-8485-2023*)

Mr. Amit Jhanji, Senior Standing Counsel with
Mr. Himanshu Arora, Additional Standing Counsel
with Ms. Madhu Dayal, Advocate and
Mr. Abhishek Premi, Advocate for U.T. Chandigarh

JAGMOHAN BANSAL, J. (ORAL)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from **CWP-20096-2021**.

2. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of order dated 07.05.2021 (Annexure P-45) whereby respondent has rejected their claim for regularization of service. They are further seeking direction to

respondent to integrate services of the petitioners rendered under Sarva Shiksha Abhiyan (for short 'SSA') into the regular cadre of the Education Department, U.T. Chandigarh.

3. The Ministry of Human Resource Development, Government of India in 2004 visualized SSA as comprehensive and integrated programme to attain universal elementary education in the country. The said programme was launched in partnership with the State Governments and Local Self Governments. As per approved programme, States and U.T. were supposed to make appointment of additional teachers to comply with pupil teacher ratio prescribed under Right to Education Act (in short 'RTE'). It was provided that new teachers would be appointed for opening new schools and additional teachers for existing schools. The maximum number of upper primary teachers would depend on the strength of upper primary sections. There would be minimum two teachers for new primary school and three teachers for upper primary schools. The salary of additional teachers will normally be allowed under SSA. States have their own norms of recruitment of teachers and payment of salary to new recruits. The states will be free to follow their own norms as long as these are consistent with the norms prescribed by National Talent Search Examination (NTSE). At least 50% new teachers should be women. Grant would be given to Government Schools as well as Government-Aided School, Cantonment, Municipal Corporation Schools and aided madrasas. In case of schools other than Government Schools, additional conditions including condition of salary shall be complied with. Salary of teachers and their service condition

would be similar to Government School Teachers. Financial assistance was contemplated as 85:15 during 9th Five Year Plan, 75:25 during 10th Five Year Plan and 50:50 sharing thereafter between the Government of India and State Government. It is apt to notice here that as per reply of Union of India (for short ‘**UOI**’), in case of U.T. without Legislature, 100% funds would be provided by UOI.

4. The matter relates to Teachers of Union Territory, Chandigarh recruited under SSA Programme. As per page 104 of the paper-book contents of which are not disputed by respondent, 1375 posts of teachers were sanctioned in various meetings of Project Approval Board in MHRD New Delhi for U.T. Chandigarh.

5. Executive Committee of National Mission for SSA in its meeting held on 05.12.2013 amended norms for various activities under said programme. The revised norms with respect to additional teachers read as:-

“8	<i>Additional teachers</i>	<i>(a) Additional teachers will be provided as per the RTE norms to all Government and Local Body schools; however SSA assistance will not be available for filling up State sector vacancies that have arisen on account of attrition and retirement vacancies.</i> <i>(b) The practice of recruiting 50% female teachers under SSA will continue.</i>	<i>The following points are inserted: h) Support for additional teachers can be availed by a State/ UT under SSA only after teacher vacancies in the State sector have been filled first.</i>
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	(c) The States shall rationalize the deployment of existing teachers to ensure that there is no urban-rural imbalance in teacher deployment. (d) The States shall maintain the prescribed PTR for each School (e) Vacancy of teachers in a school shall not exceed 10% of the total sanctioned strength (f) States shall appoint teachers with minimum qualifications as notified by NCTE under section 23 of RTE Act. (g) In case the State does not have trained persons in adequate numbers, it will seek relaxation from the Central Government under the relevant provisions of the RTE Act. While seeking such relaxation the State shall make a commitment with a detailed time bound programme for training of untrained teachers within the time frame prescribed under the RTE Act.	i) The States should maintain unified teaching cadres and no separate "S.SA cadre' IS permissible, as all teachers are ultimately to be borne on the State Government."
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6. The U.T. Administration through different letters requested Government of India to create additional posts of teachers to regularize

teachers appointed under SSA. Teachers under SSA were appointed through proper channel. There was advertisement followed by written test and all other formalities which are followed in case of regular appointments. Government of India, Ministry of Human Resource Development, Department of School Education & Literacy vide communication dated 27.03.2014 informed the U.T. Administration that pursuant to their letter dated 08.02.2013 and 07.02.2014, Government has approved creation of 1130 posts in Education Department, U.T. Administration of Chandigarh. In the said letter, it was categorically pointed out that administration may continue the present practice of engaging 647 Masters and 728 Primary Teachers on contract basis under SSA. Letter dated 27.03.2014 reads as-

*“F.No.2-2/2011-UT.I
Government of India
Ministry of Human Resource Development
Department of School Education & Literacy
UT.I Section

*B-Wing, Ground Floor, Shastri Bhawan
New Delhi, the 27th March, 2014*

To

*The Director,
Public Instructions(S)
Chandigarh Administration
Sector-9, Chandigarh*

*Subject: Creation of posts in Education
Department, UT Administration of
Chandigarh*

Sir,

I am directed to refer to your letter no.DPI-UT-AI-5(2)04-Vol.II/182-183 dated 08th February, 2013 and subsequent correspondence resting with letter dated 07.02.2014 on the subject mentioned above and to convey the approval of the Government of India for the creation of following 1130 posts in Education Department, UT Administration of Chandigarh.

<i>S. No.</i>	<i>Name of the post</i>	<i>Pay Band + Grade Pay (Rs.)</i>	<i>Number of posts sanctioned</i>
<i>Teaching posts</i>			
<i>1.</i>	<i>Master</i>	<i>10300-34800 GP 5000</i>	<i>683</i>
<i>2.</i>	<i>Master cadre (language)</i>	<i>10300-34800 GP 5000</i>	
<i>3.</i>	<i>JBT (Primary Teacher)</i>	<i>10300-34800 GP 5000</i>	<i>342</i>
<i>4.</i>	<i>NTT</i>	<i>10300-34800 GP 5000</i>	<i>83</i>
	<i>Total</i>		<i>1108</i>
<i>Administrative Posts</i>			
<i>5.</i>	<i>Director (School Education)</i>	<i>15600-39100 GP 7600</i>	<i>1</i>
<i>6.</i>	<i>Dy. Director (School Education)</i>	<i>15600-39100 GP 6600</i>	<i>1</i>
<i>7.</i>	<i>Dy. Director (Admn.)</i>	<i>15600-39100 GP 6600</i>	<i>1</i>
<i>8.</i>	<i>Dy. Controller (F&A)</i>	<i>15600-39100 GP 6600</i>	<i>1</i>
<i>9.</i>	<i>Asstt. Controller (F&A)</i>	<i>15600-39100 GP 5400</i>	<i>1</i>
<i>10.</i>	<i>Section Officer</i>	<i>10300-34800 GP 5000</i>	<i>1</i>
<i>11.</i>	<i>Sr. Assistant</i>	<i>10300-34800 GP 4400</i>	<i>8</i>
<i>12.</i>	<i>Clerk</i>	<i>10300-34800 GP 200</i>	<i>8</i>
	<i>Total</i>		<i>22</i>

2. UT Administration of Chandigarh may continue the present practice of engaging Master (647 nos.) and Primary Teachers (728 nos.) on contract basis under SSA.

2. *This issues with the approval of the Ministry of Finance, Department of Expenditure vide their ID No.35089/E.Coord.I/2014 dated 27th March, 2014.*

*Yours faithfully
Sd/-
27/3/2014
(Lakhmi Chand Mehra)
Under Secretary to Government of India”*

7. The Education Department of U.T. Administration vide letter dated 30.06.2014 made a detailed representation to Government of India highlighting history of appointment of Teachers under SSA and need of their regularization. In the said letter, it was pointed out that as per revised framework, additional teachers will be provided as per norms of RTE to maintain pupil teacher ratio and no separate SSA Teachers cadre is permissible as all teachers are ultimately to be borne on the State/U.T. Government. Continuation of practice of engaging 647 Masters and 728 Primary teachers on contract under SSA results in creating of separate SSA Cadre having different service condition from that of regular teaching staff appointed against state cadre posts contrary to instructions conveyed vide revised framework and interventions to State/U.T. Education Secretaries and State Project Directors issued by MHRD on 01.01.2014. Reference was also made to letter dated 04.03.2013 addressed to Punjab Government. In the said letter, MHRD has pointed out that in the State of Punjab separate cadre of SSA Teachers has been created for whom different service condition has been spelt out and they have been posted in only SSA schools. This is erroneous phenomena. All schools receiving SSA funding are schools of State Government and so

are all teachers. For the ready reference letter dated 30.06.2014 of U.T.

Administration is reproduced as below-

“Subject:- Creation of posts in Education Department, UT Administration of Chandigarh,

Sir,

I am directed to refer your office letter No.2-2/2011-UT-I dated 8.5.2014.

The attached representation was carefully examined and to address the grievance raised therein, following is submitted:

1 That MHRD via letter No 2-2/2011-UT-I dated 27.3.2014 asked the UT Administration of Chandigarh to continue the practice of engaging 647 Master and 728 Primary teachers on contract under SSA. The copy of the letter is annexed as annexure A-1.

2 That UT sent the proposal to MHRD vide letter no. DPI-UT-A1(2)04/Vol.1/735A1 dated 17.08.2013 (copy of the letter is annexed as Annexure-A-2) for the creation of 2483 posts of teachers including 1375 posts of teachers already approved by SSA PAB, The breakup of these posts is as under:

a. Masters (TGT)=1330 including 647 posts already approved by SSA PAB

b. JBTs=1070 including 728 posts already approved by SSA PAB

c. NTTs=83

1375 posts of teachers (Masters=647 and JBTs=728) were included in the proposal in accordance with the discussions held in the meeting of

PAB held on 14.3.2011 where in Secretary, MHRD has asked the UT to appoint all teachers under SSA on regular basis and not on contract.
The relevant part of the minutes of the meeting is reproduced as under:

“On the issue of number of teacher vacancies the UT officials Informed that though the recruitment of teachers was being undertaken regularly, the vacancies were mainly on account on low retention due to the contractual natures of the posts. It was further added that due to large scale recruitment of teachers in the adjacent states in regular post of teachers there had been a large scale retrenchment of newly recruited teachers. The UT officials informed that in case of regular teachers the rate of retention was higher. The UT officials were advised to create regular posts for the teachers in order to address the problem.”

3 That on 1.1.2014 MHRD has issued revised framework and interventions to State/UT's Education Secretaries and State Project Directors after taking approval from executive committee of National SSA Mission chaired by HRD Minister. The norms and interventions of SSA and RTE 2009 mentioned as hereunder:

a. As per norms issued by MHRD dated 1.1.2014 and decided in the meeting of executive committee of National SSA Mission chaired by HRD

Minister instructions had been issued to Education Secretaries of States/UT's vide para 8, sub para-(a), "Additional teachers will be provided as per the RTE norms to all Government and local body schools."

- b. *That further in sub para-(i) it is stated that, "The states should maintain unified teaching cadres and no separate "SSA Cadre" is permissible as all teachers are ultimately to be borne on the State/UT Government. The copy of letter of MHRD and revised norms are annexed as annexure A-3 and A-4 respectively.*
- 4 *That as per revised framework as stated in annexure A-4, all posts sanctioned by PAB under SSA to UT, Chandigarh are as per norms of RTE to maintain Pupil Teacher ratio and no separate SSA teachers cadre is permissible.*
5. *But vide letter No 2-2/2011-UT-1 dated 27.3.2014, MHRD asked the UT Administration of Chandigarh to continue the practice of engaging 647 Master and 728 Primary teachers on contract under SSA(annexure A-1) which results in creating of separate SSA cadre having different service conditions from that of regular teaching staff appointed against state cadre posts contrary to the Instructions conveyed vide revised framework and interventions to State/UT's Education Secretaries and State Project Directors Issued by MHRD on 1.1.2014 and so, U.T. Chandigarh will not be able to able to comply with these, revised*

norms of SSA (annexure A-4).

- 6 *That further to clear the rules, Sh. Rajender Prashad, Under Secretary, MHRD, and Department of School Education Literacy on 4.3.2013 issued letter No. F.No 14-1/2012-EE.3 to Punjab Director General of School Education in which it was mentioned as under:*

“SSA provides support for new teachers in schools sanctioned under SSA and also additional teachers in existing schools based on the enrolment. The support to States for additional teachers and teacher's salary is given at the same scale and service conditions as of the teaching cadre of the State. It is found that that in Punjab a separate SSA cadre of SSA Teachers has been created for whom different service conditions has been spelt out and they have been posted in only SSA schools. This is erroneous phenomenon. All schools receiving SSA funding are schools of the State Government and so are all teachers. SSA is only programme providing additional funding to the state for Elementary Education Development and reform.

The State is advised to kindly desist from creating any analogous situation on this account.” The copy of letter is annexed as A-5.

- 7 *That from perusal of annexure A-3, A-4 and A-5, it is clear that all posts sanctioned under SSA to States/UT's, herein UT,*

Chandigarh are as per norms of RTE Act 2009 and these posts are required to be created in the Education Department, Chandigarh Administration as suggested in revised frame work of SSA

8 *That already 65% of salary funds of these posts of teachers are coming from SSA. Govt of India and UT, Chandigarh is bearing 35% of the salary funds.*

9 *That for the financial Implication, no major burden is imposed neither on the Central Government nor on the state (i.e. U.T Chandigarh), since presently these teachers are paid with Initial scale salary in consolidated form (i.e. Initial Basic+ DA).*

In view of the above, it is requested to give approval for creation of remaining 647 posts of Masters and 728 posts of Primary teachers under Education Department. Chandigarh Administration which was a part of our proposal for creation of 3472 posts (Annexure IV) against which 1108 posts of teachers have been sanctioned by MHRD (Annexure I) to enable U.T. Chandigarh to merge the Teachers appointed on contract under SSA In the Education Department to meet with the instructions of Secretary MHRD, norms of RTE and latest norms and Intervention of SSA Issued on 1.1.2014 by MHRD with approval of National SSA Mission headed by HRD Minister.”

[Emphasis supplied]

8. The matter came up for consideration before Government of India which vide impugned order dated 07.05.2021 rejected requests of the U.T. Administration seeking regularization of teachers appointed under SSA. Order dated 07.05.2021 reads as:-

“Subject: Creation of posts of TGT & JBT in the Education Department of Chandigarh-reg

Sir,

I am directed to refer to UT Administration of Chandigarh's letter No. 2506-DSE-UT-S2-5(20)2004 dated 12.2.2021 subject. on the above mentioned

2. *The UT Administration of Chandigarh vide D.O. dated 11.12.2020 was requested to adequately address the queries of the Department of Expenditure and also, to clarify whether the UT Administration Chandigarh is planning to regularize the services of the teachers engaged on -contract basis in SSA scheme against these 1375 posts of JBTs and TGTs as and when these posts are sanctioned.*

3. *In response, the UT Administration of Chandigarh vide their letter. dated 12.2.2021 has informed that the Department of Personnel, Chandigarh Administration has not framed any policy for regularization of staff working on contract basis. Further, no decision is available in the record to regularize the services of these contractual teachers against 1375 posts of JBTs and TGTs for which proposal is under consideration of MoE.*

4. *The issue of regularization of services of contractual teachers engaged on contractual basis under SSA was examined in the Ministry and it is to inform that there are no such norms/guidelines of SSA to regularize the services of contractual teachers. Further, the Hon'ble Supreme Court of India vide judgment dated 10.4.2006 in Appeal (Civil) No. 3595-3612 of 1999 [Secretary, State of Karnataka vs ...Uma Devi & Others] had instructed the Union/State Government regarding regularization of contractual staffs. The Department of Personnel & Training vide O.M. No. 49011/7/2020-Estt.(C) dated 7.10.2020 (copy enclosed) have enunciated the important aspect of the said judgement dated 10.4.2006 for the purpose of clarity of the judgment.*

5. *It is clear that a per the extent of rules, norms,*

there are no provisions for regularization of services of Contractual teachers engaged on contract basis in SSA scheme, therefore, the services of the contractual teachers engaged on contract basis can't be regularized and the instant proposal for 'creation of 647 posts' of TGT and 728 posts of JBT' can't be processed further. This proposal may be treated as closed."

9. Learned counsel for the petitioners submit that petitioners were appointed by U.T. Chandigarh under SSA. They are working in Government Schools run by U.T. Administration. They are either Junior Basic Training Teacher (in short 'JBT') or Trained Graduate Teacher (in short 'TGT'). The U.T. Administration through multiple letters requested Central Government to regularize petitioners. The Central Government sanctioned 1130 posts of JBT and TGT in U.T. Chandigarh. The petitioners could be regularized against sanctioned posts. The U.T. Administration requested Central Government to grant approval to regularize petitioners against aforesaid sanctioned posts, however, Central Government has rejected proposal of the U.T. Administration on the ground that petitioners cannot be regularized as per judgment of Hon'ble Supreme Court in '***State of Karnataka Vs. Uma Devi and Ors.***', (2006) 4 SCC 1. The petitioners are working since 2005 and discharging same duties as are discharged by regular teachers still they are getting lump sum payment. They were selected after following due selection process i.e. advertisement, written test, interview, medical examination followed by police verification. They cannot be called as appointed irregularly or illegally. For all intent and purposes, they were appointed in accordance with law and mandate of Article 16 of Constitution of India.

10. Learned counsel for U.T. Administration and UOI submit that petitioners were never appointed against sanctioned posts. There is no policy of regularization of teachers appointed under SSA. Indubitably, U.T. Administration on multiple occasions asked UOI to sanction posts for teachers appointed under SSA, however, UOI never created or sanctioned posts for teachers appointed under SSA. As per communication dated 27.03.2014, 1108 posts for teachers were sanctioned and created, however, it was made clear that 1375 teachers appointed under SSA would continue to be engaged on contract basis. This letter made intention of UOI clear that teachers appointed under SSA would not be regularized. By impugned order, the Government has rejected request of administration as well as teachers. The impugned letter is based upon judgment of Hon'ble Supreme Court in *Uma Devi (supra)*. There is no infirmity in the said order. In the absence of regularization policy, the petitioners cannot be regularized. This Court cannot direct Government to create posts and in the absence of posts, the petitioners cannot be regularized.

11. I have heard learned counsel for the parties and perused the record with their able assistance.

12. The conceded position emerging from record is that the petitioners are holding posts of teachers since 2005. Most of the teachers are working for more than 20 years. They were appointed against an advertisement which was floated by SSA Society under the flagship of U.T. Administration. In the advertisement, selection criteria was prescribed. 100 marks were bifurcated into different heads like academic

qualification, written test, experience, interview etc. The petitioners participated in the written test and were selected on the basis of their merit. The entire selection process was as prescribed for selection of regular teachers. The selected candidates were also subjected to medical examination and police verification. The difference in the selection of petitioners and regular teachers was only that in their appointment letter it was jotted down that appointment is on 'contract basis'.

13. The petitioners are working since 2005 without any interruption. There is no stay in their favour. The respondent has not framed any policy regarding regularization of its employees. The petitioners are possessing qualification as prescribed for regular teachers. They are not involved in any criminal activity or misconduct. No departmental inquiry is pending against them. There was no illegality in their appointment.

14. Different High Courts as well as Hon'ble Supreme Court prior to 2006 in many cases directed States/Union of India to regularize part time/work charged/adhoc/contractual/daily wage employees. The foundation of all the judgments was length of service. In 2006, a Constitution Bench in *Uma Devi (supra)*, adverted to the question of regularization of temporary/part time/adhoc/daily wage employees. The Apex Court deprecated practice of employing temporary/part time or contractual employees though it held that in exigency, State can make appointment on contract basis. The Court held that regularization of contractual or part time employees would amount to legalisation of backdoor entrants. The regularization of part time employees is violative

of Articles 14, 16 & 309 of the Constitution of India. The employees who are working on daily wage cannot claim discrimination on the ground that they have been paid less than regularly recruited employees. The High Court should not ordinarily issue directions for absorption, regularization or continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. The High Court is not justified in issuing interim orders in such cases. There is no fundamental or vested right in those who have been employed on daily wages or temporary or contract basis to claim that they have a right to be absorbed in service. Merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant Rules. Merely because an employee had continued under cover of an order of the Court, he would not be entitled to any right to be absorbed or made permanent in the service. It would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible. If the contractual employment is declared void on the ground that the parties were not having equal bargaining power, it too would not enable the Court to grant any relief to that employee. The claim acquired by him in the post on which he is temporarily employed or the interest in that post cannot be

considered to be of such a magnitude so as to enable the giving up of the procedure established for making regular appointments to available posts in the services of the State.

15. A two Judge Bench of Apex Court in ***“Union of India v. Ilmo Devi”***, (2021) 20 SCC 290 considered question of regularization of part time employees of Union of India. The Apex Court while setting aside judgment of this Court has held that High Court in exercise of its writ jurisdiction cannot ask State to regularize part time employees. The Court has further held that part time employees cannot claim pay parity with regular employees. The Court has noticed judgment of this Court in Para 3.4 and returned findings in Para 16-19 which are reproduced as below:

“3.4. By the impugned common judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144], the High Court has disposed of the aforesaid writ petitions with the following directions : (Ilmo Devi case [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] , SCC OnLine P&H paras 22-23)

“22. We, thus, direct the petitioner authorities to revisit the whole issue in its right perspective and complete the exercise to reformulate their policy and take a decision to sanction the posts in phased manner within a specified time schedule. Let such a decision be taken within a period of six months from the date of receiving a certified copy of this order.

23. Till the exercise as directed above, is undertaken, the respondents shall continue in service with their current status but those of them who have completed 20 years as part-time daily

wagers, shall be granted “minimum” basic pay of Group “D” post(s) w.e.f. 1-4-2015 and/or the date of completion of 20 years contractual service, whichever is later.”

XXXX XXXX XXXX XXXX

16. Thus, as per the law laid down by this Court in the aforesaid decisions part-time employees are not entitled to seek regularisation as they are not working against any sanctioned post and there cannot be any permanent continuance of part-time temporary employees as held. Part-time temporary employees in a Government run institution cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work.

17. Applying the law laid down by this Court in the aforesaid decisions, the directions issued by the High Court in the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144], more particularly, directions in paras 22 and 23 are unsustainable and beyond the power of the judicial review of the High Court in exercise of the power under Article 226 of the Constitution. Even otherwise, it is required to be noted that in the present case, the Union of India/Department subsequently came out with a regularisation policy dated 30-6-2014, which is absolutely in consonance with the law laid down by this Court in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1], which does not apply to the part-time workers who do not work on the sanctioned post. As per the settled preposition of law, the regularisation can be only as per the regularisation policy declared by the State/Government and nobody can claim the regularisation as a matter of right dehors the regularisation policy. Therefore, in absence of any sanctioned post and considering the fact that the

respondents were serving as a contingent paid part-time Safai Karamcharies, even otherwise, they were not entitled for the benefit of regularisation under the regularisation policy dated 30-6-2014.

18. *Though, we are of the opinion that even the direction contained in para 23 for granting minimum basic pay of Group 'D' posts from a particular date to those, who have completed 20 years of part-time daily wage service also is unsustainable as the part-time wagers, who are working for four to five hours a day and cannot claim the parity with other Group 'D' posts. However, in view of the order passed by this Court dated 22-7-2016 [Union of India v. Ilmo Devi, 2016 SCC OnLine SC 1933] while issuing notice in the present appeals, we are not quashing and setting aside the directions contained in para 23 in the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] so far as the respondents' employees are concerned.*

19. *In view of the above and for the reasons stated above, both the appeals succeed. The impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] passed by the High Court and, more particularly, the directions contained in paras 22 and 23 in the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] are hereby quashed and set aside. However, it is observed that quashing and setting aside the directions issued in terms of para 23 in the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] shall not affect the case of the respondents and they shall be entitled to the reliefs as per para 23 of the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] passed by the High Court."*

16. A two Judge bench of Supreme Court in *Nihal Singh v. State of Punjab, (2013) 14 SCC 65* had the occasion to consider question of regularization of Special Police Officers (SPOs) appointed under Section 17 of Police Act, 1861. A Division Bench of this Court relying upon an earlier judgment of this court dismissed petitions of 20 SPOs and matter travelled up to Apex Court which turned down claim of the respondent-State of Punjab that there are no sanctioned posts to absorb appellants despite their service of decades. The Court held that State cannot take undue advantage of judgment of Supreme Court in *Uma Devi (supra)*. The said judgment cannot become licence for exploitation by the State. After availing services for decades, it is not justified on the part of the State to take a defence that there are no sanctioned posts to absorb the appellants.

17. In *State of Karnataka Vs. M.L. Kesari, (2010) 9 SCC 247*, the Supreme Court noticed misuse by the State and its agencies, non-compliance of order of the Apex Court and denying benefits to the employees. The Court noticed that the object as such was two folds. Firstly, those persons who had put in more than 10 years of services were to be considered for regularization in view of the long service. Secondly, it was to ensure that departments do not perpetuate the practice of employing persons on daily wage, adhoc or casual basis. It was held that persons who had worked for more than 10 years on 10.04.2006 were entitled for regularization and necessary directions were issued in the said case and those not entitled because of lack of educational qualifications were to be regularized on a lower post.

18. Supreme Court recently in '*Jaggo v. Union of India and others*', 2024 SCC OnLine SC 3826, noticing judgment of Constitutional Bench in *Uma Devi (supra)* has held that no employee can be kept temporary for an indefinite period. An employee has right to be considered for regularization. The relevant extracts of the judgment read as:

"10. Having given careful consideration to the submissions advanced and the material on record, 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.

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16. The appellants' consistent performance over their long tenures further solidifies their claim for regularization. At no point during their engagement did the respondents raise any issues regarding their competence or performance. On the contrary, their services were extended repeatedly over the years, and their remuneration, though minimal, was incrementally increased which was an implicit acknowledgment of their satisfactory performance. The respondents' belated plea of alleged unsatisfactory service appears to be an afterthought and lacks credibility.

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19. It is evident from the foregoing that the appellants' roles were not only essential but also indistinguishable from those of regular employees. Their sustained contributions over extended periods, coupled with absence of any adverse record, warrant equitable

treatment and regularization of their services. Denial of this benefit, followed by their arbitrary termination, amounts to manifest injustice and must be rectified.

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. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a scenario demanding fair regularization. In a recent judgment of this Court in Vinod Kumar and others v. Union of India and others (2024) 1 SCR 1230, it was held that procedural formalities cannot be used to deny regularization of service to an employee whose appointment was termed “temporary” but has performed the same duties as performed by the regular employee over a considerable period in the capacity of the regular employee. The relevant paras of this judgment have been reproduced below:

“6. The application of the judgment in Uma Devi (supra) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over a considerable period

through continuous service. Their promotion was based on a specific notification for vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in the case of Uma Devi (supra).

7. The judgment in the case Uma Devi (supra) also distinguished between “irregular” and “illegal” appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case...”

XXX XXX XXX XXX

22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.

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25. *It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:*

- ***Misuse of “Temporary” Labels*** : *Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labelled as “temporary” or “contractual,” even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.*
- ***Arbitrary Termination*** : *Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.*
- ***Lack of Career Progression*** : *Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.*
- ***Using Outsourcing as a Shield*** : *Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice*

not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.

• **Denial of Basic Rights and Benefits** : Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.

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.”

[Emphasis supplied]

19. The Hon’ble Supreme Court in “***Union of India Vs. K. Velajagan And Ors.***”, 2025 SCC OnLine SC 837 decided on 04.02.2025 has observed that decision in ***Uma Devi (supra)*** cannot be used as a shield to justify exploitative engagements persisting for years without the employer undertaking legitimate recruitment process to deny relief of regularization.

20. A conspectus of afore-cited judgments leads to the conclusion that Courts have rejected plea of regularization because claimants were not recruited in accordance with procedure as contemplated by Article 14 and 16 of the Constitution of India. The Courts formed opinion that executive has made appointment of these employees without following procedure prescribed for regular appointment. On account of contractual/daily/ad hoc appointment, meritorious candidates do not participate and mediocre come forward. The executive in violation of procedure ensures backdoor entry of favourite and less meritorious candidates. The regularization of these backdoor entrants would encourage executive and jettison of rule of law as well as mandate of Articles 14 and 16 of the Constitution. Unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. The High Courts acting under Article 226 of the Constitution should not ordinarily issue directions for absorption,

regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. It would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible. A total embargo on such casual or temporary employment is not possible, given the exigencies of administration and if imposed, would only mean that some people who at least get employment temporarily, contractually or casually, would not be getting even that employment when securing of such employment brings at least some succour to them.

21. The States/U.T. have made hay from the findings of the Constitution Bench. They have started making appointment on contract/ad-hoc/temporary/part time basis in every department including education which is a character and nation building department. Many teachers appointed on contract basis are getting miniscule salary even in comparison to regularly appointed peons. The exchequer is siphoned off for subsidies instead of appointing regular employees and paying regular pay scale. The Supreme Court, in case of exigencies, had permitted to make appointment on contract basis and did not permit States and its agencies to make it a routine practice. The Court had emphasized to make appointments in public employment after following procedure prescribed for regular recruitment and in accordance with mandate of Articles 14 and 16 of the Constitution of India. Intention and imprimatur of the court was to inhibit and discourage backdoor entry. The Court did not permit to

make contractual recruitment for infinity and pay minimum of pay scale. The State being a model employer neither can exploit its citizen nor take advantage of mass unemployment. It is expected to make recruitment in accordance with prescribed procedure and on permanent basis. It cannot keep hanging sword of termination.

22. The claim of the petitioners needs to be examined in the light of aforesaid judgments. The petitioners are not backdoor entrants. Their appointment was made after following procedure. There was advertisement. The petitioners filed applications. They were subjected to written test, interview, medical examination and police verification. In the advertisements, maximum age as well as qualification was prescribed. No candidate was selected who was not possessing prescribed qualifications. The appointments were made against posts sanctioned by Project Approval Board in MHRD, New Delhi under SSA, U.T. Chandigarh. They are uninterruptedly working with University since 2012.

23. Peculiar features of the selection of the petitioners are that they were appointed under SSA programme. Secretary, MHRD in the meeting held on 14.03.2011 asked U.T. to appoint all teachers under SSA on regular basis. In the revised norms, MHRD clarified that States should maintain unified teaching cadre as all teachers are ultimately to be borne on the State/U.T. Government. U.T. in its letters pointed out to UOI that continuation of SSA Teachers on contract basis results in creation of separate cadre. Under Secretary, MHRD on 04.03.2013 asked State of

Punjab not to maintain separate cadre of SSA Teachers and pointed out that all schools getting SSA funding are schools of the State Government and so are all teachers.

Different letters of U.T. make it clear that appointment of teachers was made as per SSA Programme launched by MHRD. Project Approval Board sanctioned posts and appointment of petitioners was made. U.T. was always of the opinion that petitioners should be regularized. U.T. was asking UOI to create posts. UOI created posts but asked U.T. to continue to engage petitioners on contract basis. UOI rejected proposals of U.T. relying upon judgment of Supreme Court in *Uma Devi (supra)*. The petitioners are performing same duties which are performed by regular teachers appointed by U.T. Administration. They are working in Government schools along with regular teachers.

24. The case of petitioners is squarely covered by recent judgments of Hon'ble Supreme Court in *Jaggo (supra)*, *Shripal and Another Versus Nagar Nigam, Ghaziabad, 2025 SCC Online SC 221* and *Dharam Singh and Others Versus State of U.P. and Another, 2025 SCC OnLine SC 1735*. In view of those judgments, reliance placed by respondents upon *Uma Devi (supra)* is misplaced. It is apt to notice that during the course of hearing, despite being repeatedly asked, learned counsel for the respondent could not point out any judgment where regularization was denied in spite of appointment after following due procedure. The petitioners are not backdoor entrants and they were appointed against posts sanctioned by Project Approval Board. The

respondent in the teeth of judgment of Supreme Court in *Uma Devi (supra)* continued to engage petitioners on contract basis. Judgments cited by respondents criticize irregular and backdoor entry. By placing reliance upon *Uma Devi (supra)*, the respondents have raised self-contradictory stand. On one hand, the respondent did not make regular appointments in the teeth of Supreme Court judgments and on the other hand despite following due appointment procedure has kept the petitioners contractual for almost 20 years.

25. As per judgment of this Court as well as Supreme Court, adhoc, temporary, part time, daily wage or contractual workers cannot be regularized if their appointment was not made as per procedure prescribed for regular appointments. The petitioners were appointed after following due procedure. They are fully qualified. They are working with the U.T. Chandigarh since 2005 and that too without any protection of this Court or any other Court. They were selected against posts sanctioned by Project Approval Board. They cannot be denied regularization on the basis of absence of posts or regularization policy.

26. In the wake of above discussion and findings, this Court is of the considered opinion that the instant petitions deserve to be *allowed*.

27. The respondents are hereby directed to regularize the petitioners who have been appointed under SSA and are working for more than 10 years as on date i.e. 14.11.2025. The needful shall be done within six weeks from today. If no order of regularization is passed within 6 weeks from today, they shall be deemed to be regularized.

28. To avoid future similar petitions and save valuable time, energy and resources of litigants as well as this Court, I find it appropriate to direct the respondents to apply this judgment to all the similarly situated teachers.

29. Pending application(s), if any, also stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

November 14, 2025
Deepak DPA

Whether Speaking/reasoned: Yes/No
Whether Reportable: Yes/No