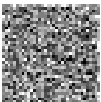


2025.PHHC:179482



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CWP-31401-2025

PHOOLWATI
.....PETITIONER(S)
VERSUS

STATE OF HARYANA AND ORS.
.....RESPONDENT(S)
2. CWP-19304-2025

SUNEHARI DEVI
.....PETITIONER(S)
VERSUS

STATE OF HARYANA AND ORS.
.....RESPONDENT(S)

3. CWP-28604-2024

NANKI DEVI
.....PETITIONER(S)
VERSUS

STATE OF HARYANA AND ORS.
.....RESPONDENT(S)

4. CWP-7794-2021

SHISHPAL AND OTHERS
.....PETITIONER(S)
VERSUS

STATE OF HARYANA AND ORS.
.....RESPONDENT(S)

5. CWP-8001-2025

MOHINDER SINGH
VERSUS
STATE OF HARYANA AND ORS.

.....PETITIONER(S)
.....RESPONDENT(S)

6. CWP-27470-2025

HISAM SINGH @ ISHAM SINGH
VERSUS
STATE OF HARYANA AND ORS.

.....RESPONDENT(S)

7. CWP-27974-2024

LAL CHAND
VERSUS
STATE OF HARYANA AND ORS.

.....RESPONDENT(S)

8. CWP-31303-2018

SUNIL KUMAR AND OTHERS
VERSUS
STATE OF HARYANA AND ORS.

.....RESPONDENT(S)

9. CWP-25136-2019

SURESH KUMAR AND ANR.
VERSUS
STATE OF HARYANA AND ORS.

.....RESPONDENT(S)

11.	CWP-26130-2019
ROSHAN LAL AND ORS.	PETITIONER(S)
VERSUS	
STATE OF HARYANA AND ORS.	RESPONDENT(S)
12.	CWP-6020-2016 (O&M)
DHARAM SINGH AND OTHERS	PETITIONER(S)
VERSUS	
STATE OF HARYANA AND ORS.	RESPONDENT(S)
13.	CWP-12289-2019 (O&M)
MAHINDER KUMAR	PETITIONER(S)
VERSUS	
STATE OF HARYANA AND ANR.	RESPONDENT(S)
14.	CWP-13525-2024 (O&M)
KANHIYA LAL	PETITIONER(S)
VERSUS	
STATE OF HARYANA AND ORS.	RESPONDENT(S)
15.	CWP-13634-2010 (O&M)
BAJRANG	PETITIONER(S)
VERSUS	
STATE OF HARYANA AND ORS.	RESPONDENT(S)

16.

CWP-1670-2003 (O&M)

BIHARI

.....PETITIONER(S)

VERSUS

STATE OF HARYANA AND ORS.

.....RESPONDENT(S)

17.

CWP-18127-2001 (O&M)

RAJINDER KUMAR

.....PETITIONER(S)

VERSUS

STATE OF HARYANA AND ORS.

.....RESPONDENT(S)

18.

CWP-3171-2022 (O&M)

MUNSI @MUNSI RAM

.....PETITIONER(S)

VERSUS

STATE OF HARYANA AND ORS.

.....RESPONDENT(S)

1.	The date when the judgment is reserved	19.12.2025
2.	The date when the judgment is pronounced	31.12.2025
3.	The date when the judgment is uploaded	31.12.2025
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	Not applicable

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present:

Mr. R.K. Malik, Sr. Advocate with
Mr. Kartikey Chaudhary, Advocate
Mr. Chander Pal Tiwana, Advocate and
Ms. Swati Tiwana, Advocate, Mr. Sumit Tiwana, Advocate
Mr. R.S. Sangwan, Advocate
Mr. Mukesh Kumar Verma, Advocate and
Mr. Dharampal Saini, Advocate, Mr. Karan Bhadwaj,
Mr. Surender Kumar Daaria, Advocates and
Mr. Parveen Bhardwaj, Advocate

Ms. Harmanjeet Kaur, Advocate for
Mr. R.S. Mamli, Advocate
Mr. Rahul Singh, Advocate and
Ms. Sirat Sapra, Advocate
Mr. L.R.Sharma, Advocate
Mr. Sandeep Goyat, Advocate
Mr. Vivek Khatri, Advocate
Mr. Jitender S. Chahal, Advocate
Mr. Stephan Masih, Advocate
Mr. S.K.Bhardwaj, Advocate
Mr. Raman B.Garg, Advocate
Mr. Madan Pal, Advocate for the petitioner(s)

Mr. Deepak Balyan, Addl. AG, Haryana with
Mr. R.D.Sharma, DAG, Haryana and
Ms. Mayuri Lakhanpal, DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

Vide this common order, this Court intends to dispose off all the above-said petitions together as common question of law is involved therein. Just to avoid repetition, the facts are being taken from ***CWP-31401-2025 titled as “Phoolwati vs. State of Haryana and others”***

Prayer

1. This writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing/ setting aside of the impugned Speaking Order dated 01.10.2024 (Annexure P-11) passed by respondent No. 3 vide which the claim of the petitioner for regularization of her services w.e.f. 01.02.1996 in view of the Instruction/regularization policy dated 07.03.1996/ 18.03.1996 (Annexure P-1), has been rejected in an illegal, arbitrary and discriminatory manner, as the petitioner has worked continuously since more than 31 years on daily wages basis with the respondents Department. Further, for issuance of a writ in the nature of Mandamus directing the respondents to regularize the services of the petitioner on

the post of Mali/Labourer (Group-D posts) w.e.f. 01.02.1996, along with arrears and all consequential benefits, in view of the regularization policy dated 07.03.1996/18.03.1996 (Annexure P/1).

Brief facts of the case:-

2. The petitioner, was engaged as a Mali/Labourer (Group-D) on daily wage basis on 10.06.1988 in the Saraswati Forest Range, Kaithal. She continued to work uninterruptedly and her name remained on the Muster Roll of the Forest Department, though no formal appointment letter was issued. Her work remained satisfactory throughout and no adverse record was ever reported.

3. The Government of Haryana issued regularization policies in 1996, 2003 and a clarificatory notification in 2014 providing for regularization of eligible Group-C and Group-D employees working on daily wage/ad-hoc basis. The petitioner claims to have fulfilled the eligibility conditions under the 1996 policy, having completed more than three years of service as on 31.01.1996. However, her services were not regularized, while several similarly situated and junior employees were granted regularization.

4. On 26.12.2016, the petitioner's services were verbally terminated without notice. She raised an industrial dispute, which was allowed by the Labour Court, Ambala, vide award dated 29.11.2017, directing her reinstatement with continuity of service and 50 % back wages. She was reinstated on 12.04.2018. The award was later upheld by this Court vide order dated 05.09.2024 passed in CWP-13458-2021, titled as ***“Divisional Forest Officer, Territorial Vs. Phoolwati***, with modification only to the extent of reducing back wages from 50% to 30%.

5. A seniority list prepared in 2007 showed the petitioner at Serial No. 51, and several workers junior to her were regularized thereafter. Despite

representations and a legal notice, no decision was taken on her claim, compelling her to file a writ petition seeking regularization. Connected matters were decided by this Court in the month of March 2024, and her petition was disposed of accordingly. However, the respondents failed to comply.

6. During contempt proceedings, the respondents rejected her claim vide order dated 01.10.2024 on the basis of the 2003 policy, without considering her claim under the 1996 policy. The contempt petition was disposed of with liberty to challenge the said order.

7. The petitioner relies upon earlier judgments of this Court granting regularization to similarly situated Forest Department employees. She was relieved from service on 06.02.2020 on attaining superannuation, without grant of retiral benefits. She contends that, in view of her continuous service from 1988 and reinstatement with continuity, she is entitled to regularization under the 1996 policy and that the impugned rejection order is arbitrary and discriminatory.

Contentions

On behalf of the petitioner(s)

8. Learned counsel for the petitioner(s) submits that the petitioner was engaged as a Mali/Labourer (Group-D) on daily wage basis on 10.06.1988 and continued in service uninterruptedly for several years with a satisfactory record. It is contended that she fulfilled all eligibility conditions under the regularization policy dated 07.03.1996/18.03.1996, having completed more than three years of service as on the cut-off date.

9. It is argued that instead of regularizing her services, the respondents illegally terminated the petitioner on 26.12.2016 without notice or compliance with the Industrial Disputes Act. The Labour Court, Ambala, vide award dated

29.11.2017, ordered her reinstatement with continuity of service, which has attained finality up to this Court.

10. It is further submitted that a seniority list prepared in 2007 placed the petitioner at Serial No. 51 and that several junior and similarly situated employees were subsequently regularized. Denial of similar benefit to the petitioner is stated to be arbitrary and discriminatory.

11. It is lastly contended that the petitioner was relieved from service on attaining superannuation without grant of retiral benefits solely due to non-regularization, and that she is entitled to regularization from the date of eligibility along with consequential benefits.

On behalf of the respondents

12. Learned counsel for the respondent–State submits that the petitioner’s claim for regularization was rightly rejected vide speaking order dated 01.10.2024, as she did not fulfill the mandatory conditions of the regularization policies, including completion of 240 days’ service in the relevant years and engagement against a vacant sanctioned post. It is contended that her engagement was purely temporary and dehors the recruitment rules, attracting the bar laid down in “*State of Karnataka v. Uma Devi. (2006) 4 SCC*”

13. It is argued that the earlier writ petition filed by the petitioner was disposed of with a direction to pass a reasoned order, which has been duly complied with. Official records, now traced, show that the petitioner was not eligible for regularization under any policy. Grant of continuity of service by the Labour Court, according to the State, does not confer any vested right to regularization.

14. It is also contended that the regularization policies of 1996, 2003 and 2014 either stand withdrawn or have been set aside by this Court in “***Yogesh Tyagi vs. State of Haryana***” ***CWP-17206-2014 dated 31.05.2018***, and the matter is sub judice before the Hon’ble Supreme Court with an order of status quo. In the absence of any operative policy, no enforceable right of regularization survives.

15. It is lastly contended that forestry work has been largely seasonal and executed through contractors, creating no master–servant relationship with the department. In view of the above, the impugned order is legal and the writ petition deserves dismissal.

16. Heard counsel for both parties.

Analysis:

17. 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 29.11.2017, as affirmed by this Court on 05.09.2024, confers upon the petitioner a legally enforceable right of continuity of service for all consequential purposes, including regularization as well as retiral benefits as petitioner stands super annuated ?
2. Whether the petitioner, having completed the requisite length of service while the Regularization Policies dated 07.03.1996 and 18.03.1996 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 and even junior to the petitioner(s), 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 29.11.2017 as affirmed by this Court on 04.09.2024 , confers upon the petitioner a legally enforceable right of continuity of service for all consequential purposes, including regularization?

Effect of the Labour Court award

18. The Labour Court clearly directed reinstatement with continuity of service *vide* award dated 29.09.2017 (Annexure P-4), which was subsequently affirmed by this Court in CWP No. CWP-13458-2021, titled as “***Divisional Forest Officer, Territorial Vs. Phoolwati***” on 05.09.2024 (Annexure P-6).
19. 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.

20. 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.”

21. 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 he would have occupied but for such illegality. This doctrine, though rooted in civil jurisprudence, is now deeply embedded in service law and labour adjudication.

22. 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 seasonal worker and is an impeachment of a binding judicial determination, which is impermissible in law.

23. Therefore, the respondents' attempt to now classify the petitioner's service as fragmented or seasonal 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 1988 when she initially joined. 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 07.03.1996 and 18.03.1996 were in force, possesses a vested or legitimate entitlement to be considered for regularization ?

24. The policy dated 07.03.1996, issued vide Notification 6/38/95-2GS-1, read with the amendment dated 18.03.1996, 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:

25. Instructions dated 07.03.1996 issued by Chief Secretary to Government, Haryana is reproduced hereinbelow :-

‘Work-Charged employees who have completed five or more years of continuous service as on 31st January, 1996, and were in service on 31st January, 1996 shall be regularized. On regularization, these employees shall be liable for transfer in the State of Haryana on any project/ Work. Casual/Daily rated employees. The Casual and Daily rated employees who have completed five year service on 31st January, 1996 and were in service on 31st January, 1996 shall be regularized provided they have worked for a minimum period of 240 days in each year and the break in service in any year is not more than one month at a time. Such employees who have worked on different posts having different designations in the same department shall also be regularized if they fulfil other conditions, On regularization, they shall be put in the time scale of pay applicable to the lowest Group 'D' cadre in the

Government and they would be entitled to all other allowances and benefits available to regular Government servants of the corresponding grade. Daily-rated employees (Class-III). That only such daily-wagers who have completed five year services on Class-Ill posts on 31st January, 1996 and were in service on 31st January, 1996 shall be regularized against their respective Class-!! posts provided they fuifil the requisite qualifications and were originally appointed on Class-Ill posts and the posts are available. If the posts are not available, they should be got created from the Finance Department or they should be regularized in Group 'D' scale on compassionate grounds like other daily-wagers provides further that they have worked for a minimum period of 240 days in each year and the break in service in any year is not more than one month at a time. Government has also taken a decision to take out all such Class-ill posts from the purview of Subordinate Services Selection board, Haryana as has been held for a minimum period of five years on 31st January, 1996 by Class-III employees on daily-wages basis and he employees working against them fulfil the conditions of regularization.

Subsequently as amended on 18.03.1996 is as under:-

“Subject : Regularisation of Work-Charge/Casual/Daily-rated employees.

- 1. XXXXX XXXXXX XXXXX*
- 2. XXXXX XXXXXX XXXXX*
- 3 Accordingly, Government instructions issued vide letter of even number dated 7th March, 1996 should be considered as modified to the extent that the Work-Charged/Casual/Daily-rated employees with 3 years service on 31st January, 1996 instead of 5 years service on 31st January, 1996 shall be eligible for regularisation.”*

26. 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 the above-mentioned.

27. 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.

28. In the instant case, admittedly the petitioner has been working since 1988 i.e., more than 2 ½ 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 his life span for a meagre amount, which may not be even sufficient to maintain themselves what to talk of their dependents in the family.

29. 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.

30. 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).

31. 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."

32. 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.”

33. 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.

34. 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

35. 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".

36. The petitioner's entitlement under the Regularization Policy of 1996 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 31.01.1996, her right to be considered for regularization stood crystallised on that date.

Substantive Conditions for Regularization Policy

37. The Regularization Policy dated 07.03.1996, as amended on 18.03.1996 prescribes specific conditions for regularization of daily wage Group-D employees, namely:

The employee must be Work-Charged / Casual / Daily-rated (Group-D employee).

- *The employee must have been in service on 31st January, 1996.*
- *The employee must have completed the minimum qualifying service as on 31st January, 1996:*
- *Initially 5 years, but reduced to 3 years by the modifying instructions.*
- *For Casual/Daily-rated employees:*
- *They must have worked for at least 240 days in each year, and*

- *The break in service in any year should not exceed one month at a time.*

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

39. Applying the aforesaid eligibility conditions of the 1996 Regularization Policy to the facts of the present case, it is evident that the petitioner fulfils all the required criteria. The petitioner was engaged as a Mali/Labourer (Group-D), which squarely falls within the category of Casual/Daily-rated employees contemplated under the policy. She was initially engaged on 10.06.1988 and admittedly remained in service on 31.01.1996, thereby satisfying the foundational requirement of being in employment on the cut-off date. By that date, she had rendered more than seven years of service, far in excess of the minimum qualifying service of three years prescribed by the modified instructions of 1996. The petitioner's service has been continuous, as evidenced from her consistent presence on the Muster Roll, and the Labour Court award dated 29.11.2017 granting reinstatement with continuity of service, which has attained finality, reinforces the legal fiction of uninterrupted service from the date of initial engagement. There is no material on record to suggest that the petitioner suffered any break in service beyond the permissible limit or that her engagement was unsatisfactory at any point of time. On the contrary, her long continuance and retention till superannuation demonstrate availability of work and departmental requirement. The petitioner was also placed in the seniority list prepared in 2007, and several employees junior to her were regularized, further confirming that she was working against posts of a regular and continuing nature. In these circumstances, all essential conditions stipulated under the 1996 policy stand

satisfied in the petitioner's case, and her claim for regularization from the due date under the said policy is fully justified.

40. As regards the condition of being "in service on 31.01.1996", the material placed on record states that the petitioner served as a casual worker continuously till December, 2016 thereby clarifying that the petitioner was indeed in service on 31.01.1996 and fulfills this condition as well for the purpose of being covered under the policy.

41. 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 now discard the employee after serving the State and its citizens for more than 25 years solely because the initial appointment lacked a formal advertisement or selection process especially when this irregularity is attributable entirely to the employer.

42. The plea regarding breaks in service also cannot be sustained as the illegal termination dated 26.12.2016 has already been set aside with continuity in service by virtue of the Labour Court award 29.09.2017 reinstating his/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.

43. 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.

44. 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 policy dated 07.03.1996 as amended on 18.03.1996. 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

45. 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 and even junior to him have been granted the benefit of regularization to which there is no specific denial by the State in its written statement.

46. 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.

47. 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.”

48. This pronouncement squarely applies to the present case as the petitioner had completed more than 25 years of continuous service and all conditions for considering her for regularization stood fulfilled. Even then, excluding him from consideration, while extending regularization to others similarly situated, is precisely the mischief ***M.L. Kesari (supra)*** cautions against.

49. 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.

50. 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.”

51. 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 five 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?

52. 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.

53. 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.

54. 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.”

55. 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.

56. In subsequent, judicial pronouncements while taking note of ***Uma Devi's case (supra)***, the Supreme Court in “***Nihal Singh and Ors. VS. State of Punjab and Ors. vide Civil Appeal No.635 of 2013***” held that *Uma Devi* judgment cannot be a licence for exploitation by the State and its instrumentalities, who directed the State of Punjab to regularize the services of the appellants even by creating necessary posts within a period of three months from the date of judgment

holding the appellants/employee entitled to all the benefits of services attached to the post, who are similar in nature.

57. The Supreme Court of India in a three judges Bench decision in **“Prem Singh vs. State of Uttar Pradesh and Ors., 2019 (10) SCC 516”** also considered Uma Devi's case (supra) and directed to regularize the service of those employees, who have worked for 10 years or more alongwith all other benefits to which they became entitled and also for some of the employees therein, who have attained the age of superannuation, were held entitled to receive pension as if they have retired from the regular establishment as can be read from the relevant para 35 of this judgment.

"35. There are some of the employees who have not been regularized in spite of having rendered the services for 30-40 or more years whereas they have been superannuated. As they have worked in the work-charged establishment, not against any particular project, their services ought to have been regularized under the Government instructions and even as per the decision of this Court in Secretary, State of Karnataka & Ors. v. Uma Devi 2006 (4) SCC 1. This Court in the said decision has laid down that in case services have been rendered for more than ten years without the cover of the Court's order, as one time measure, the services be regularized of such employees. In the facts of the case, those employees who have worked for ten years or more should have been regularized. It would not be proper to regulate them for consideration of regularisation as others have been regularised, we direct that their services be treated as a regular one."

58. It is thus abundantly clear that the ratio of Uma Devi's case (supra) would also not be handy to the respondent-department as there are consistent enunciation of law directing regularization of services of such daily rated/casual worker/work charged/contractual/adhoc employees, who have rendered 10 or more years of service.

59. The submission advanced on behalf of the respondents, founded upon the judgment in **Yogesh Tyagi (supra)**, cannot be accepted in the facts and

circumstances of the present case. It is not in dispute that vide notification dated 29.07.2007, the State withdrew and superseded the existing regularization policies. However, the mere withdrawal of policy cannot operate to extinguish accrued and crystallized rights of employees who had already rendered long, continuous service and had otherwise become eligible for consideration for regularization prior thereto.

60. This Court cannot lose sight of the fact that the petitioner had completed the requisite length of service much before the issuance of the 2007 notification. The failure to regularize the petitioner at the relevant time was not attributable to any lapse on his part, but was solely on account of inaction and delay on the part of the State. The law is well settled that the State cannot be permitted to take advantage of its own omission to defeat legitimate claims of its employees. Timely consideration for regularization was not a matter of discretion alone, but a constitutional obligation flowing from Articles 14 and 16 of the Constitution of India. The issue is no longer *res integra* in view of the judgment discussed above in **Jago's case (supra)** wherein relief was granted notwithstanding the absence or withdrawal of an operative policy. The Court therein recognized that where an employee has served the State for decades on end, performing duties of a regular nature, denial of regularization would amount to exploitation and arbitrary exercise of power. The emphasis, therefore, was not merely on the existence of a policy, but on the conduct of the employer and the legitimate expectation created in favour of the employee by prolonged engagement.

61. Viewed thus, the reliance placed by the State upon **Yogesh Tyagi (supra)** is clearly without merit. The said judgment dealt with the validity of the

2014 policy and the permissibility of seeking regularization under earlier policies through a one-time measure. The present case, however, does not seek regularization by invoking the 2014 policy, nor does it challenge the withdrawal of earlier policies. The petitioner's claim rests on the principle that he ought to have been regularized at the point in time when he fulfilled all eligibility conditions, and that the State's failure to act cannot now be used as a shield to deny him substantive justice.

62. To deny relief in the present case would not only perpetuate arbitrariness, but would also result in hostile discrimination, particularly when similarly situated employees have been extended the benefit of regularization. Equality before law does not countenance such selective application of policy, nor does it permit the State to regularize some while indefinitely continuing others in a state of contractual uncertainty. Accordingly, this Court is of the considered view that the petitioner is entitled to regularization, not as a matter of policy indulgence, but as a consequence of constitutional mandate, equitable principles, and the State's duty to act fairly. The claim of the petitioner, therefore, deserves to be allowed, with regularization to take effect from the date she became eligible, along with all consequential benefits, as admissible in law.

63. Lastly, the question as to whether the petitioner was not recruited through employment exchange or other proper mode of recruitment i.e., by way of advertisement etc., after inviting applications needs to be examined considering various other factors, which cannot be ignored at any cost for a poor employee, who has devoted 25 years of her life. It cannot ever be the intent and spirit of either the law framers or of the Court of law as its guardian not to protect a citizen from exploitation and from falling prey to unfair labour practice at the hands of

none other than but the State Governments itself. The length of service in the instant case is good enough and a strong reason weighing to the mind of this Court to hold that there is a regular need of work and her services are required but the State Government is probably shrugging off its responsibility.

64. 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.

65. 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.

66. Even otherwise, the objection raised by the respondent–State that the petitioner was not working against a sanctioned post cannot be accepted at this belated stage. The record reveals that the petitioner was engaged by the department itself and was continuously taken in service for more than two and a half decades, till she was ultimately relieved from her services vide relieving order dated 06.02.2020 (Annexure P-15) on completion of 58 years of age as on 31.12.2019. The State cannot be permitted to approbate and reprobate by extracting work from the petitioner for nearly 25 years and thereafter take a complete u-turn to contend that her engagement was not against a sanctioned post.

Long and uninterrupted continuance of the petitioner, her inclusion in the seniority list, and the regularization of similarly situated and junior employees unmistakably demonstrate that the work performed by her was of a perennial and regular nature and that the department had a continuing requirement for such posts. Having allowed the petitioner to serve for such a considerable length of time and having treated her as part of the establishment for all practical purposes, the respondents are estopped in law from raising the plea of non-sanctioned post to defeat her legitimate claim for regularization. Such a stand is not only arbitrary but also contrary to fairness in State action and cannot be sustained.

67. In view of the law laid down by the Supreme Court in *“Union of India & Others v. Ilmo Devi & Another”* in Civil Appeal Nos. 5689–5690 of 2021, decided on 07.10.2021, it is settled that the writ jurisdiction of this Court under Article 226 of the Constitution of India does not empower it to issue directions or a writ of mandamus to the State for creation or sanction of posts, such matters being within the exclusive prerogative of the executive. Though, the State cannot be compelled to frame or implement a particular policy of regularization it cannot be disputed that the State, guided by the Directive Principles of State Policy, is expected to evolve policies that ensure protection and provide a conducive working environment for its employees, so as to foster efficiency and a sense of security. In the present writ petition, such a welfare-oriented and considered approach on the part of the State is found to be conspicuously lacking.

Conclusion:

68. In view of the discussion above, this Court holds that the petitioner satisfied the conditions of the regularization policy dated 07.03.1996 (as amended

on 18.03.1996) 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.

69. In the totality of the facts and circumstances noticed hereinabove, this Court has no hesitation in holding that the petitioner was entitled to regularization under the 1996 policy at the relevant point of time and that the respondents failed to extend the said benefit to her despite her long, continuous and blemish-free service. The petitioner has since superannuated, having devoted the prime years of her working life to the respondent-department, yet has been deprived of the dignity and security of retiral benefits solely on account of the inaction and indifference of the State. The approach adopted by the respondents, in denying regularization for decades and raising hyper-technical objections after extracting service for more than 25 years, is wholly insensitive and unbecoming of a welfare State. The State ought to have acted fairly and taken timely steps to regularize the petitioner when she was clearly eligible, instead of compelling her to engage in prolonged litigation even after retirement.

70. Consequently, the present writ petition is hereby allowed; the impugned speaking order dated 01.10.2024 (Annexure P-11) is set aside; and the petitioner is held entitled to regularization from the due date under the 1996 policy with all consequential benefits, including notional fixation of pay and accordingly the arrears accruing thereof and also to release the admissible retiral dues. The arrears of pay and delay in retiral dues, which is not due to the fault of the

petitioner(s), shall carry interest @ 6% per annum from the date it became due till its actual realization. The respondents are directed to complete the said exercise within a period of four weeks from the date of receipt of certified copy of this order, so that the petitioner is not further made to suffer for no fault of her own.

71. This judgment shall govern all the connected matters claiming regularization under 1996 policy with similar facts.

72. A copy of this order be placed on the files of the connected petitions.

31.12.2025
Meenu

(SANDEEP MOUDGIL)
JUDGE

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