



2025:UHC:5004-DB

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE JUSTICE MR. MANOJ KUMAR TIWARI

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

16th June, 2025

Special Appeal No. 243 of 2017

Executive Officer, Nagar Palika Parishad, Jaspur and another
----- Appellants

Versus

State of Uttarakhand and others -----Respondents

With

Special Appeal No. 114 of 2017

Rajan Kumar and others ----- Appellants

Versus

State of Uttarakhand and others -----Respondents

With

Special Appeal No. 220 of 2017

Executive Officer, Nagar Palika Parishad, Jaspur and others
----- Appellants

Versus

State of Uttarakhand and others -----Respondents

With

Special Appeal No. 222 of 2017

Executive Officer, Nagar Palika Parishad, Jaspur and another
----- Appellants



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Versus

State of Uttarakhand and others

-----Respondents

With

Special Appeal No. 237 of 2017

Executive Officer, Nagar Palika Parishad, Jaspur and another

----- Appellants

Versus

State of Uttarakhand and others

-----Respondents

And

Special Appeal No. 241 of 2017

Executive Officer, Nagar Palika Parishad, Jaspur and another

----- Appellants

Versus

State of Uttarakhand and others

-----Respondents

Presence:-

Mr. Harendra Belwal, learned counsel for the appellants in SPA No. 220 of 2017, SPA No. 222 of 2017, SPA No. 237 of 2017, SPA No. 241 of 2017 and SPA No. 243 of 2017.

Mr. Dharmendra, learned counsel for the appellant and Mr. Harendra Belwal, learned counsel for the private respondent in SPA No. 114 of 2017.

Mr. K.N.Joshi, learned Deputy Advocate General for the State.

Mr. Vinay Kumar, learned counsel for the private respondents.

JUDGMENT: (per Manoj Kumar Tiwari, J.)

Since common questions of law and facts are involved in these six Special Appeals, which have been filed challenging the common Judgment and order dated 20.02.2017, passed by learned Single Judge, therefore, they are heard together and are being decided together. However,



for the sake of brevity, facts of Special Appeal No. 243 of 2017 alone are being considered and discussed.

2. These *intra court* appeals filed by the State are directed against judgment and order dated 20.02.2017, rendered by learned Single Judge in Writ Petition (S/S) No.1112 of 2016, Umesh Kumar vs. State of Uttarakhand and others. By the judgment under challenge, learned Single Judge has decided five writ petitions filed by Safai Karmcharies serving on contract in Nagar Palika Parishad, Jaspur, District Udham Singh Nagar whereby Nagar Palika Parishad was directed to complete the exercise of regularization within eight weeks with a further direction that if regularisation is made, seniority of the writ petitioners shall be calculated after considering the continuity of service of the petitioners. The operative portion of impugned judgment is reproduced below:

“7. In view of the aforesaid, the writ petitions succeed. A mandamus is hereby issued to the respondents to complete the entire exercise for regularization as expeditiously as possible, but definitely within a period of eight weeks from the date of production of a certified copy of this order. In case regularization is to be made, the seniority of the petitioners has to be calculated in accordance with law after considering the continuity of the services of the petitioners.”

3. Learned counsel for the appellants submits that the writ petitioners (respondents herein) were engaged through Mohalla Swachhta Samiti, which were constituted in terms of letter issued by Director, Urban Development on 08.07.2003 and not by the Nagar Palika, therefore, Safai Karmcharies engaged through Mohalla Swachhta Samiti are not entitled for regularisation in the establishment of Nagar Palika, Jaspur.



4. Learned counsel for the writ petitioners (respondents herein) *per contra* submits that the writ petitioners were engaged as Safai Karmchari on contract directly by Nagar Palika Parishad, Jaspur, w.e.f. 01.03.2001 and they are continuously serving as such ever since then. He further submits that although Director, Urban Development, issued a letter on 08.07.2003 (*Annexure No.CA1*) to Counter Affidavit, filed by Nagar Palika Parishad, however, fresh appointment letters were never issued to writ petitioners (respondents herein) after 08.07.2003 and they continued to receive salary directly from Nagar Palika Parishad which was credited to their saving bank accounts. He further submits that even after creation of the Mohalla Swachhta Samiti, status of the writ petitioners did not undergo any change. He refers to the Director's letter dated 08.07.2003, wherein it is mentioned that Mohalla Swachhta Samiti are created to reduce the financial burden upon the Urban Local Bodies, for contending that these Samiti are sham which were envisioned as a tool to deprive the Safai Karmcharis of their service benefits.

5. Learned counsel for writ petitioners further submits that Nagar Palika Parishad has regularized other Safai Karmcharies who were engaged on contract in the year 2009 by ignoring claim of the writ petitioners who were appointed in the year 2001. He further submits that in the proposal dated 20.08.2015 sent by Executive Officer, Nagar Palika Parishad to District Magistrate, regarding regularization, name of nine *safai karmcharies* were mentioned and they all were appointed in 2009. Thus, he submits that writ petitioners were discriminated against, in as much as even after having been appointed in 2001, their



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claim for regularisation was overlooked. He further submits that the writ petitioners have served for more than 24 years but they are yet to be regularized. Learned counsel for respondents further submits that in the regularization order dated 17.12.2016, aforesaid nine persons who were regularized were shown to be working since 2003 which casts doubt on the entire exercise undertaken by the Nagar Palika.

6. Learned Single Judge has considered and discussed all relevant aspects and held that claim of writ petitioners cannot be denied by taking specious plea that that they were engaged through Mohalla Swacchta Samiti, as they were paid wages by the Nagar Palika and they are performing statutory duty of the Nagar Palika.

7. We do not find any scope of interference with the direction issued to consider case of writ petitioners for regularisation, and the competent authority will complete the exercises within 8 weeks from date of presentation of certified copy of this judgment, before him. However, their seniority shall be governed by applicable Rules and the direction issued on said aspect stands modified to the extent indicated above.

(Manoj Kumar Tiwari, J.)

(Subhash Upadhyay, J.)

Dated: 16.06.2025

Kaushal