

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.14 of 2025

In
Civil Writ Jurisdiction Case No.13373 of 2023

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1. The Union of India through the Secretary, Ministry of Cooperation, Government of India, New Delhi.
 2. The Additional Secretary, Ministry of Cooperation, Govt. of India-cum-President, Executive Council, National Council for Co-operative Training (N.C.C.T), 3-Siri Institutional Area, August Kranti Marg, New Delhi-110016.
 3. The Secretary, National Council for Co-operative Training (N.C.C.T), 3-Siri Institutional Area, August Kranti Marg, New Delhi-110016.
 4. The Joint Director (Personnel), National Council for Co-operative Training (N.C.C.T), 3-Siri Institutional Area, August Kranti Marg, New Delhi-110016.
 5. The Director, D.N.S. Regional Institute of Co-operative Management, Shastri Nagar, Patna- 800023

... .. Appellants

Versus

(Dr.) Rajesh Kumar S/o Sri Narendra Kumar, Resident of X- 12, Ashiana Nagar, Phase-1, P.S.-Rajiv Nagar, District- Patna.

... .. Respondent

Appearance :

For the Appellant/s	:	Mr. K N Singh, Sr. Adv. Mr. Anshay Bahadur Mathur, Adv. Mr. Shivaditya Dhari Sinha, Adv. Mr. Abhinav, Adv.
For the Respondent/s	:	Mr. Lalit Kishore, Sr. Adv. Mr. Arbind Kumar Singh, Adv. Mr. Kanishka Shankar, Adv.
For the State	:	Mr. Rishikesh Ojha, Adv.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 17-04-2026

We have extensively heard Mr. K N Singh, learned
Senior Counsel duly assisted by Mr. Anshay Bahadur Mathur,



learned counsel on behalf of the appellants and Mr. Lalit Kishore, learned Senior Counsel with Mr. Kanishka Shankar, learned counsel for the respondents. The State is represented through Mr. Rishikesh Ojha, learned counsel.

2. The present intra-court appeal is preferred against the order dated 02.12.2024 as well as its modified order dated 20.12.2024 passed by the learned Single Judge of this Court in CWJC No. 13373 of 2023, directed the respondent no. 3 (the Secretary, National Council for Co-operative Training) (hereinafter referred to as, “NCCT”) to take steps to give equal treatment to the writ petitioner at par with the other persons, who have been selected following the law laid down by the Hon’ble Apex Court and regularize the petitioner on the post of Lecturer, from the date of his eligibility or at least from the date other Lecturers have been appointed by obtaining expeditious approval, in view of the admitted fact that the petitioner has completed more than two decades of service.

3. The writ petitioner is also held to be entitled for all consequential benefits and the arrears of pay and accordingly, the respondent no. 3 was directed to ensure the payment of the same within stipulated period of three months.

4. The aforementioned order has further been modified to



the extent that other Lecturers, who were appointed in the year 2011 are differently placed while the writ petitioner is entitled to be regularized from the date of his initial appointment i.e. 06.11.2001 on contract basis, which was not incidental but integral and continuous for over more than two decades.

5. The relevant facts, which are necessary for the adjudication of the present appeal are summarized hereinbelow, for proper appreciation of the challenge led before this Court.

(i) The petitioner having Post Graduate degree in Public Administration, subsequently awarded with Ph.D. degree on “Management and Administration of Rural Co-operative in Bihar”, applied for his appointment as Lecturer at DNS Regional Institute of Co-operative Management, Shastri Nagar, Patna. After due scrutiny, he was invited to appear for an interview, wherein he was declared successful and subsequently offered appointment to the post of Faculty Member on a purely contractual basis, vide Office Order dated 03.11.2001 (Annexure-1 to the writ petition). In pursuant to the aforementioned office order, the petitioner submitted his joining and subsequently vide letter dated 21.07.2005, the Director, DNS Regional Institute of Co-operative Management, Shastri Nagar, Patna sought for *ex-post-facto* approval of the appointment of



the petitioner along with other similarly situated employees and accordingly, the *ex-post-facto* approval has been accorded by the Regional Director vide Annexure-4 to the writ petition.

(ii) Subsequently, in the year 2011, a vacancy for the post of 30 Lecturers was advertised by the Institute in which the petitioner had also applied and participated, but failed to qualify. In the meanwhile, the contract period of the petitioner was extended, time to time, by different letters and lastly vide letter dated 14.01.2023, it was extended for a further period of 11 months with effect from 16.01.2023. The petitioner, who has been continuing since long submitted representations before all the higher authorities, including before the Hon'ble Minister of NCCT for absorption of his service and/or salary at the initial grade of employees of similar grade.

(iii) The petitioner having found no response on his representations has approached this Court by filing CWJC No. 8197 of 2023 with identical prayer of regularization of service. The learned Single Judge vide its order dated 13.06.2023 disposed off the writ petition with a direction to the respondent Institute to consider the case of the petitioner in light of the law laid down by the Hon'ble Apex Court as well as this Court, after giving him due opportunity of hearing and to pass a reasoned



order within stipulated period.

(iv) In view of the direction of this Court passed in CWJC No. 8197 of 2023, the petitioner filed a representation before the concerned authority. However, the prayer of the petitioner came to be rejected vide order dated 10.08.2023 issued by the Secretary, NCCT. Aggrieved, the petitioner preferred CWJC No. 13373 of 2023, challenging the order dated 10.08.2023 on various grounds, *inter alia*, that respondent no. 3 (The Secretary, NCCT) denied the regularization of the petitioner ignoring the judgment passed by the Hon'ble Supreme Court in the case of ***Narendra Kumar Tiwary & Ors. -Vrs.- State of Jharkhand & Ors.***, reported in ***(2018) 8 SCC 238***, as also the concerned respondent failed to consider the mandate of the Constitution Bench rendered in the case of ***Secretary State of Karnataka & Ors. -Vrs.- Uma Devi (3) & Ors.***, reported in ***(2006) 4 SCC 1*** whereby specific direction has been given to take steps to regularize those, who have worked for ten years or more against the duly sanctioned post, as one time measure.

(v) The respondent no. 5 (the Director, DNS Regional Institute of Co-operative Management, Shastri Nagar, Patna) entered his appearance and filed a counter affidavit stating



therein that the petitioner was duly appointed on contractual basis with a specified terms and conditions, wherein there is no provision for regularization of service and the judgments over which the writ petitioner had placed reliance are not applicable.

(vi) The learned Single Judge having heard the parties have been pleased to dispose off the writ petition on 02.12.2024 with a direction to take steps to give equal treatment to the petitioner with other identically situated persons and regularize him on the post of Lecturer, which order was later on modified vide order dated 20.12.2024 to the extent that other Lecturers, who were appointed in the year 2011 are differently placed, while the petitioner is entitled to be regularized from the date of his initial appointment i.e. 06.11.2001 on contract basis, which was not incidental but integral and continuous for over more than two decades.

“This is the order, which is put to challenge before this Court by filing the present intra-court appeal”.

6. Mr. K N Singh, learned Senior Counsel while assailing the judgment/order of the learned Single Judge has primarily submitted that the aforesaid judgment/order has been passed without having extended the opportunity to file a detailed counter affidavit by the Union of India. So far as



respondent no. 5 in the writ petition is concerned, he is none else but the Director, DNS Regional Institute of Co-operative Management, Shastri Nagar, Patna and has not placed the entire facts. Had the Union of India be given proper opportunity, it would have been able to bring on record the entire factual position as to why the petitioner is not entitled for his regularization.

7. Learned Senior Counsel, for the appellants, further submitted that the learned Single Judge failed to appreciate that the appointment of the writ petitioner-respondent herein was not made through the proper channel or by following the process of open selection. Rather, the Director, DNS Regional Institute of Co-operative Management, Shastri Nagar, Patna, received the application of the writ petitioner along with his bio-data without obtaining approval from the Administration and Finance Sub-Committee of NCCT and, as such, the appointment is apparently contrary to Rule 3.6 of the Service Recruitment and Promotion Rules, 1994 (hereinafter referred to as the “Rules, 1994”) of NCCT.

8. In terms of Clause 2.1 of the Rules, 1994; the Director General/the Executive Vice Chairman of the NCCT was the appointing authority for Group-B employees, whereas



appointment of the respondent was done and approved by respondent no. 5 in an illegal manner. The writ petitioner was also not carrying the required qualification for the post of Lecturer, inasmuch as, for the post on which the petitioner was appointed on contract basis, the required qualification was Post Graduation in Economics/ Agriculture/ Business Administration/ Cooperation/ LLM/ MCA or M.Tech in Computer Science, whereas the petitioner was having the qualification of Post Graduation in Public Administration.

9. Admittedly, the petitioner was appointed on contractual basis on 03.11.2001 and after expiry of the contractual period, the services of the writ petitioner was discontinued on twenty two occasions.

10. The learned Senior Counsel, Mr. Singh, further urged that the finding of the learned Single Judge, to the effect that the petitioner would fall within the category of an irregular appointment, is wholly erroneous. On the contrary, in light of the judgment rendered in *State of M.P. & Ors. v. Lalit Kumar Verma*, reported in (2007) 1 SCC 575, particularly paragraph 18 thereof, the appointment of the petitioner is patently illegal and, therefore, cannot be regularized in terms of paragraph 53 of the judgment in *Secretary, State of Karnataka v. Uma Devi (3)*



(*supra*).

11. Learned Senior Counsel further submits that the finding of appointment of the petitioner on duly vacant sanctioned post is again contrary to the record, because in the year 2011 vacancy for the post of 40 Lecturers were advertised, in which the writ petitioner and other candidates have appeared but failed to qualify and, as such, the qualified persons were appointed against vacant and sanctioned post only.

12. Taking this Court through the decisions rendered in the case of ***Uma Devi (3)*** (*supra*), Mr. K N Singh, learned Senior Counsel submitted with all vehemence that the Hon'ble Supreme Court clarified that if the appointment itself is infraction of the rules or in violation of the constitutional provisions, it cannot be regularized. Moreover, one time exercise should consider all daily-wage/ad-hoc/casual employees who had put in ten years of continuous service as on 10.04.2006, without availing the protection of any interim orders or any Court or Tribunals. However, it is apparent that the petitioner was brought in service on contractual post on 06.11.2001 and on the cut-off date, he was having 4 ½ years of service.

13. Referring to a Full Bench decision of this Court in



the case of ***Ram Sevak Yadav Vs. The State of Bihar & Ors.***, reported in ***(2013) 1 PLJR 964***, it is submitted that any appointment not preceded by any advertisement or selection process or calling name from employment exchange against a sanctioned post manifests that it was a backdoor appointment doled out to him as an individual favour. The illegal and irregular appointment both have different connotations while latter denotes rudimentary compliance but with infractions which could be remedied. The former denotes an action contrary to law from the very inception making it void *ab-initio*. Thus, those who came in through backdoor must go out through the same door.

14. On the other hand, Mr. Lalit Kishore, learned Senior Counsel for the respondent, dispelling the aforementioned contentions, submitted that the very appointment of the petitioner-respondent herein, was processed through scrutiny of the application followed by interview by the Director, DNS Regional Institute of Co-operative Management, Shastri Nagar, Patna and further he sought an *ex-post-facto* approval mentioning therein that such appointment was made against vacant and sanctioned post; accordingly, *ex-post-facto* approval was granted by respondent no. 3, the Secretary, NCCT, New



Delhi.

15. Learned Senior Counsel for the respondent further contended that the extension of the contractual period continuously for over a two decades clearly indicates that the services rendered by the petitioner was duly appreciated and there was a need for such post, over which the petitioner has been satisfactorily discharging his duty. The rejection of the claim of the writ petitioner for regularization on the ground of absence of any rule for regularization is unsustainable, in view of the dictum of the Hon'ble Supreme Court in the case of ***Uma Devi (3) (supra)***, where it is ruled that if an employee is appointed against a sanctioned post and has been continuously discharging his duty without any interruption, in such circumstances, his case should be considered for regularization as one time measure.

16. Learned Senior Counsel for the respondent further emphasised that the scope of ***Uma Devi (3) (supra)*** was duly expanded by subsequent judgments, including ***Jaggo Vs. Union of India***, reported in ***2025 (1) PLJR (SC) 165***, ***Vinod Kumar & Ors. Etc. -Vrs.- Union of India & Ors.***, reported in ***(2024) 1 SCR 1230*** and recently in the case of ***Shripal & Anr. -Vrs.- Nagar Nigam, Ghaziabad (Civil Appeal No. 8157 of 2024)***, as



well as *Bhola Nath v. The State of Jharkhand and Ors.*, reported in **2026 INSC 99**, wherein even contractual employees rendering continuous, unblemished service discharging perennial and essential duties are directed to be regularized from the date of employment; as the mandate of *Uma Devi (3) (supra)* cannot serve as a shield to justify exploitative engagements persisting for years.

17. In the writ petition, moreover, the plea of appointment having been made by unauthorized authority and petitioner lacks requisite qualification had never been raised by the appellant at any stage of proceedings. Hence, the appellant cannot be allowed to raise all the new pleas at the stage of appeal.

18. Adverting to the aforesaid facts, Mr. Lalit Kishore, learned Senior Counsel, lastly submits that the grounds which have been raised by the appellants find no whisper in the pleadings and arguments advanced before the learned Single Judge, wherein all the appellants had appeared and duly heard, besides sufficient opportunity was granted to file counter affidavit. Thus, at this belated stage before appellate Court, appellants are not permitted to make out a new case, especially when no perversity is pointed out by them from the records of



the case.

19. After having anxiously heard the learned Senior Counsel appearing on behalf of the respective parties, the issues arising for consideration before this Court are formulated as under:

ISSUES

(i) Whether pleas not raised before the learned Single Judge can be permitted to be urged for the first time at the appellate stage in a Letters Patent Appeal, in the absence of any adjudication thereon by the learned Single Judge?

(ii) Whether the appointment and services of the writ-petitioner against a vacant post of Lecturer on contractual basis are liable to be regularized, considering his long and continuous service?

(iii) Whether the writ petitioner, having been declared unsuccessful in the recruitment process of 2011 for regular appointment, can be granted any preference over successful candidates, and whether his services can be regularized with effect from the date of his initial contractual appointment?

20. Having formulated the aforesaid issues for consideration, this Court now proceeds to examine the same, issue-wise, in the light of the pleadings on record, the



submissions advanced by the learned counsel for the parties, and the settled principles of law governing the field.

21. Issue No.(i): Whether pleas not raised before the learned Single Judge can be permitted to be urged for the first time at the appellate stage in a Letters Patent Appeal, in the absence of any adjudication thereon by the learned Single Judge?

21.1 It is trite that pleadings constitute the foundation of adjudication in writ proceedings, and the parties are bound by their pleadings. The Court ordinarily adjudicates only upon the issues arising from the pleadings on record. An appellate court, particularly while exercising jurisdiction under Letters Patent, does not permit wholly new pleas involving questions of fact or mixed questions of fact and law to be raised for the first time, unless such pleas go to the root of the matter and involve a pure question of law not requiring any further factual inquiry.

21.2 The Hon'ble Supreme Court in *National Textile Corporation Limited v. Naresh Kumar Badrikumar Jagad & Ors. [(2011) 12 SCC 695]*, has held that there is no quarrel with the settled legal proposition that a new plea cannot be taken in respect of any factual controversy whatsoever; however, a new ground raising a pure legal issue for which no inquiry/proof is



required, can be permitted to be raised before the court at any stage of the proceedings.

21.3 *In Chinta Lingam & Ors. v. Government of India & Ors. [(1970) 3 SCC 768]*, the Hon'ble Supreme Court has held that unless a proper factual foundation is laid in the pleadings, no argument can be permitted to be raised on that point. It has further been observed that in the absence of specific pleadings, no evidence can be led, as it is a settled principle of law that no amount of evidence can be looked into in the absence of corresponding pleadings. *[vide Syed and Company and Ors. v. State of Jammu and Kashmir & Ors., 1995, Supp (4) SCC 422]*.

21.4 Recently, a Coordinate Bench of this Court in *Binod Kumar Mishra v. The Indian Oil Corporation Limited & Ors. [2026 (2) BLJ 508]*, of which one of us, Hon'ble the Chief Justice, was a member, had occasion to consider a similar issue. The learned Division Bench, while examining whether an appellant in a Letters Patent Appeal can be permitted to raise a plea which was neither pleaded nor urged in the earlier proceedings, and whether such plea would be barred by the doctrine of constructive *res judicata* and the principle of finality of pleadings, answered the issue in the following terms:



“It is equally well settled that an appellate court, especially in Letters Patent jurisdiction, does not ordinarily permit a wholly new factual or mixed question of fact and law to be raised for the first time, unless it goes to the root of jurisdiction or involves a pure question of law not requiring further factual inquiry. The plea of suppression under Clause 10 is a matter which ought to have been specifically pleaded and adjudicated upon in the writ proceedings. To entertain such a contention at this stage would not only enlarge the scope of the appeal but also cause prejudice to respondent no. 10, who had no occasion to meet such a distinct plea before the learned Single Judge.

Therefore, this Court is of the considered view that the appellant is not entitled to raise, at the stage of the present Letters Patent Appeal, a new and independent ground alleging violation of Clause 10 of the advertisement, when such plea was neither specifically pleaded nor urged in the earlier proceedings. The attempt is clearly hit by the principles analogous to constructive res judicata and the settled doctrine of finality of pleadings. Accordingly, the issue is answered against the appellant.”

21.5 In the present case, the principal submission of the learned Senior Counsel for the appellant is that he was not



afforded adequate opportunity to file a counter-affidavit so as to bring all relevant facts on record, and that such facts have now been placed before this Court in the present Letters Patent Appeal. However, this contention does not persuade this Court to undertake an adjudication on issues which were neither raised nor dealt with by the learned Single Judge.

21.6 In such circumstances, the appropriate remedy available to the appellants was to approach the learned Single Judge by filing an appropriate application and placing the entire material on record. Having failed to do so, the appellants cannot be permitted to raise such issues for the first time in the present appeal.

21.7 This Court, therefore, is confined to the findings recorded in the impugned order and the materials that were available before the learned Single Judge. Accordingly, while answering **Issue No. (i)**, this Court proceeds to consider only those issues which arise from the record before the learned Single Judge and the impugned judgment passed on that basis.

22. **Issue No.(ii):** Whether the appointment and services of the writ-petitioner against a vacant post of Lecturer on contractual basis are liable to be regularized, considering his long and continuous service?



22.1 The facts are not in dispute that, vide office order dated 03.11.2001 issued by the Regional Director, DNS Regional Institute of Cooperative Management, the writ petitioner was appointed as a faculty member purely on contractual basis on a consolidated salary, with a clear stipulation that the engagement could be terminated at any time without assigning any reason. Subsequently, the names of the employees, including the writ petitioner, who were appointed on contractual basis, were forwarded for approval to the Chairman of the Management Committee of the Institute. The records indicate that such appointments were made against vacant posts within the sanctioned strength, and the Secretary, NCCT, New Delhi, thereafter acceded to the request and conveyed ex post facto approval for the appointment of five employees on contractual basis, as contained in Annexure-4 to the writ petition. It is also admitted that the services of the petitioner have been continuously extended from time to time since inception i.e. from 03.11.2001, except some technical breakage caused due to issuance of delayed extension letters. In particular, his engagement was recently extended for a period of 11 months from 16.02.2022 to 15.01.2023 vide office order dated 14.02.2022 (Annexure-5), and thereafter further extended



for a similar period of 11 months with effect from 16.01.2023 on the same terms and conditions vide order dated 14.01.2023.

22.2 The aforesaid facts clearly indicate that the writ petitioner has been continued on the said post for over a period of more than two decades. In such circumstances, it reasonably follows that the duties discharged by the petitioner were of a regular and perennial nature and integral to the day to day functioning of the institution.

22.3 In the aforesaid factual background, this Court now proceeds to consider the mandate of law as enunciated by the Hon'ble Supreme Court in a catena of decisions; and at the outset, takes note of the Constitution Bench judgment in *Umadevi (3)(supra)*.

The said judgment arose out of a reference on account of divergence of views expressed by different Benches of the High Court of Karnataka. The conflict essentially related to the right, if any, of employees appointed by the State or its instrumentalities on temporary, daily wage or casual basis, to seek a writ of mandamus for their absorption or regularization in service.

While in certain decisions such claims were entertained, in others the action of the Government in



restraining such appointments and regulating the mode of entry into public service was upheld. When the matter came up before a Bench of two Hon'ble Judges, it was referred to a larger Bench, and eventually, in view of conflicting decisions even by Benches of three Judges, the issue was authoritatively settled by the Constitution Bench.

22.4 The Hon'ble Constitution Bench, after an exhaustive consideration of the earlier precedents, underscored that adherence to the rule of equality in public employment is a basic feature of the Constitution. It was observed that since the rule of law forms the core of the Constitution, the Courts would be precluded from issuing directions that would result in violation of Articles 14 and 16.

It was held that unless an appointment is made in accordance with the relevant recruitment rules and through a process of open competition amongst eligible candidates, such appointment would not confer any right upon the appointee.

The Court further clarified that a contractual appointment would come to an end in terms of the contract, and similarly, an engagement on daily wage or casual basis would cease upon its discontinuation. Mere continuation of a temporary or casual employee beyond the term of appointment



would not entitle such employee to absorption or regularization, if the initial appointment itself was not made in accordance with the prescribed procedure.

22.5 While laying down the aforesaid legal position, the Hon'ble Constitution Bench, however, carved out a limited exception by providing for a one-time measure in respect of those employees who had been appointed irregularly and had continued in service for ten years or more against duly sanctioned posts, without the protection of any interim orders passed by Courts or Tribunals, and issued directions in that regard, which are as follows:

“One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa R. N. Nanjundappa and B.N. Nagarajan and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases



abovereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover or orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or within six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.”

22.6 After going through the decision in the case of **Uma Devi (3)** (supra), it is evident that if the appointment itself is in infraction of rules and if it is in violation of the provisions of the Constitution, illegality cannot be regularized. Rectification and regularization is possible of an act which is within the power and province of the authority but there has been some non-compliance with procedure and manner which



does not go to the root of the appointment, there cases may be considered for regularization as one time measure in terms with the afore-noted mandate.

22.7 The exception contained in para-53 of the judgment in *Umadevi (3) (supra)*, wherein the Hon'ble Constitution Bench directed that a one-time exercise for regularization be undertaken within a period of six months, i.e., from 10.04.2006, subsequently came up for consideration before the Hon'ble Supreme Court in *State of Karnataka v. M.L. Kesari & Ors. [(2010) 9 SCC 247]*, wherein the Hon'ble Court clarified that those eligible employees who had been left out of consideration for regularization, for any reason, within the stipulated period, would also be entitled to be considered, provided they satisfied the conditions laid down in *Umadevi (3) (supra)*. It was further observed that if the employer had not undertaken the exercise of regularization within the prescribed period, or had undertaken it only in respect of a limited number of employees, the remaining eligible employees could not be denied consideration.

22.8 Subsequently, in a series of decisions, including *Upendra Singh v. State of Bihar [(2018) 3 SCC 680]*, the Hon'ble Supreme Court has reiterated the principles laid down



in *Umadevi (3) (supra)*, holding that the question of regularization of employees appointed dehors the rules does not arise, except in cases where such employees have worked for more than ten years against duly sanctioned posts, without the protection of any interim order passed by a Court or Tribunal.

22.9 A similar issue relating to regularization recently came up for consideration before the Hon'ble Supreme Court in *Vinod Kumar v. Union of India [(2024) 9 SCC 327]*, wherein the Hon'ble Court, upon considering the plethora of precedents on the subject, observed that “the essence of employment and the rights thereof cannot be merely determined by the initial terms of appointment when the actual course of employment has evolved significantly over time. The continuous service of the appellants in the capacities of regular employees, performing duties indistinguishable from those in permanent posts, and their selection through a process that mirrors that of regular recruitment, constitute a substantive departure from the temporary and scheme-specific nature of their initial engagement. Moreover, the appellants' promotion process was conducted and overseen by a Departmental Promotional Committee and their sustained service for more than 25 years without any indication of the temporary nature of their roles



being reaffirmed or the duration of such temporary engagement being specified, merits a reconsideration of their employment status.”

22.10 Further, in ***Jaggo v. Union of India* [2024 SCC OnLine SC 3826]**, the Hon’ble Supreme Court, upon a careful consideration of the various aspects of the matter and the submissions advanced, observed that long and uninterrupted service of employees, extending well beyond ten years, cannot be brushed aside merely by describing their initial appointment as part-time or contractual. It was held that the true essence of such employment is required to be assessed in the light of the sustained contribution of the employees, the integral and perennial nature of the duties discharged by them, and in the absence of any material to indicate that their entry in service was illegal or through any surreptitious means.

It would be apposite to reproduce the relevant paragraphs, which are quoted hereinbelow:

“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 v. Union of India, 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."

22.11 Further, in ***Shripal & Ors. v. Nagar Nigam, Ghaziabad*** [2025 SCC OnLine SC 221], the Hon'ble Supreme Court has emphasized that where the nature of work is perennial, and the employees have been engaged for long durations, such engagements cannot be treated as purely casual or short-term. It has been observed that the principle of "equal



pay for equal work” cannot be lightly disregarded where employees have discharged duties akin to those of regular employees for extended periods. The Court has also cautioned State authorities and instrumentalities against the misuse of temporary or contractual engagements in a manner that results in exploitation of employees.

22.12 In ***Dharam Singh v. State of U.P. [(2025) SCC OnLine SC 1735]***, the Hon’ble Court strongly deprecated the culture of “ad hocism” adopted by States in their capacity as employer. The Court criticized the practice of outsourcing and informalizing recruitment as a means to evade regular employment obligations, observing that such measures perpetuate precarious working conditions while circumventing fair and lawful engagement practice.

22.13 It would be worth benefiting to take note of the recent verdict, in the case of ***Bhola Nath (supra)***, wherein the Hon’ble Supreme Court while adjudicating the appeal preferred by the appellants, whose cases were dismissed by the learned Single Judge as well as Division Bench of Jharkhand High Court on account of their engagement being purely contractual in nature and continued in service by virtue of periodic removal for specified terms and therefore did not acquire any enforceable



right to seek regularization in absence of such scheme, set aside both the judgments and allowed the appeal by observing as follows:

“13.9. The State must remain conscious that part-time employees, such as the appellants, constitute an integral part of the edifice upon which the machinery of the State continues to function. They are not merely ancillary to the system, but form essential components thereof. The equality mandate of our Constitution, therefore, requires that their service be reciprocated in a manner free from arbitrariness, ensuring that decisions of the State affecting the careers and livelihood of such part-time and contractual employees are guided by fairness and reason.

13.10. In the aforesaid backdrop, we are unable to persuade ourselves to accept the respondent-State's contention that the mere contractual nomenclature of the appellants' engagement denudes constitutional protection. The State, having availed of the appellants' services on sanctioned posts for over a decade pursuant to a due process of selection and having consistently acknowledged their satisfactory performance, cannot, in the absence of cogent reasons or a speaking decision, abruptly discontinue such engagement



by taking refuge behind formal contractual clauses. Such action is manifestly arbitrary, inconsistent with the obligation of the State to act as a model employer, and fails to withstand scrutiny under Article 14 of the Constitution.

FINAL CONCLUSION:

14. In light of our discussion, in the foregoing paragraphs, we summarize our conclusions as follows:

I. The respondent-State was not justified in continuing the appellants on sanctioned vacant posts for over a decade under the nomenclature of contractual engagement and thereafter denying them consideration for regularization.

II. Abrupt discontinuance of such long-standing engagement solely on the basis of contractual nomenclature, without either recording cogent reasons or passing a speaking order, is manifestly arbitrary and violative of Article 14 of the Constitution.

III. Contractual stipulations purporting to bar claims for regularization cannot override constitutional guarantees. Acceptance of contractual terms does not amount to waiver of fundamental rights, and contractual stipulations cannot immunize arbitrary State action from constitutional



scrutiny.

*IV. The State, as a model employer, cannot rely on contractual labels or mechanical application of **Umadevi** (supra) to justify prolonged ad-hocism or to discard long-serving employees in a manner inconsistent with fairness, dignity and constitutional governance.*

V. In view of the foregoing discussion, we direct the respondent-State to forthwith regularize the services of all the appellants against the sanctioned posts to which they were initially appointed. The appellants shall be entitled to all consequential service benefits accruing from the date of this judgment.”

22.14 In the backdrop of the aforesaid legal position, this Court finds that the writ petitioner, though initially appointed on contractual basis, was granted ex post facto approval, and his continued engagement on the said post cannot be faulted on the ground of non-adherence to procedural requirements and lacking eligibility. The long continuous service over a considerable period clearly suggest, the duty, substantive in nature, akin to permanent employees. Mere contractual nomenclature of the petitioner engagement cannot denude him from constitutional protection. Hence, the reliance on procedural formalities at the outset cannot be used to deny



substantive rights, that have accrued to the writ petitioner on account of sustained service more than 23 years.

22.15 This Court is also conscious of the fact that in the year 2011, the writ petitioner had participated in the process of regular appointment along with other candidates, but was declared unsuccessful. However, despite the same, he has been allowed to continue in service for over a considerable period extending beyond a decade and, in fact, he has served the institution for more than two decades unblemishedly without any interruption, consistently acknowledged his satisfactory service and also fortified the case of the writ petitioner regarding his perennial nature of services subserving the need of institution.

It is not the case of the respondents that any decision was ever taken to discontinue the writ petitioner on the ground that his initial appointment was dehors the rules. On the contrary, the materials on record, particularly the communications seeking and granting ex post facto approval, as well as the repeated extensions of his engagement, clearly indicate and strengthen the claim of the writ petitioner that he was appointed against a vacant sanctioned post of Lecturer and has been continuously discharging his duties for over two



decades.

22.16 In such circumstances, non-consideration of the petitioner's case for regularization, especially at this stage, would amount to denial of legitimate benefits of regularization and basic service security. Such a course is not expected of a welfare State or its instrumentalities, which are under a constitutional obligation to act fairly and to avoid exploitative employment practices. The action of the Institution in engaging the writ petitioner during his youth to discharge duties, and thereafter, upon his rendering long and dedicated service, leaving him to fend for himself, particularly when he has attained the age of superannuation and no further employment opportunities remain, cannot be countenanced in law. Such conduct is not only in complete derogation of the principle of equality enshrined under Article 14 of the Constitution, but also suffers from the vice of arbitrariness and exploitation. The highest court of the land, as noted above, has also ruled that denial of consideration for regularization on account of nomenclature of contractual appointment of the persons, who have been working against a sanctioned post for over a decade is wholly unjustified and fails to withstand the scrutiny of Article 14 of the Constitution of India.



22.17 Accordingly, in view of the aforesaid discussions, this Court is of the considered view that the writ petitioner, having been appointed against a vacant post and having rendered long and continuous service for more than two decades, is entitled to regularization of his services, in the facts of the present case. **Issue no.(ii)** is answered accordingly.

23. **Issue No. (iii):** Whether the writ petitioner, having been declared unsuccessful in the recruitment process of 2011 for regular appointment, can be granted any preference over successful candidates, and whether his services can be regularized with effect from the date of his initial contractual appointment?

23.1. Once this Court has come to the conclusion that the writ petitioner was appointed against a vacant post of Lecturer and has rendered long, continuous and integral service for more than two decades, even on contractual basis, making him fit for regularization, his participation in the recruitment process of the year 2011 would not disentitle him from such consideration, nor would it amount to granting him any premium over others if his services are regularized from the date of his initial appointment.

The claim of the writ petitioner stands on an entirely



different footing. Though he participated in the recruitment process of 2011, but his claim for appointment/absorption was not founded upon the said selection process, albeit on the basis of his long and continuous service since the year 2001 against a sanctioned post.

It is also not the case of the appellants that the candidates selected in the year 2011 were similarly situated or had been appointed in a manner akin to the respondent/writ petitioner. Therefore, no parity can be drawn between the petitioner and those appointed through the regular recruitment process of 2011.

23.2 In the aforesaid premises, the appellants have failed to establish any parity between the respondent/writ petitioner and the candidates selected in the year 2011 so as to deny him the benefit of regularization.

23.3 Accordingly, this Court is of the considered view that regularization of the respondent/writ petitioner would not amount to granting him any undue advantage or premium over others. **Issue No. (iii)** is answered accordingly.

24. Having answered all the issues, and upon consideration of the judgment and order passed by the learned



Single Judge, this Court does not find any perversity or patent illegality warranting interference in the present Letters Patent Appeal.

25. Accordingly, the present Letters Patent Appeal stands dismissed.

26. There shall be no order as to cost(s).

(Harish Kumar, J)

(Sangam Kumar Sahoo, CJ) : I agree.

(Sangam Kumar Sahoo, CJ)

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