

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17312 of 2015

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Ram Uday Paswan son of Late Ramcharitra Paswan, resident of Vill.- Dadpur, P.S.- Bhagwanpur and Distt.- Begusarai, at present posted as L.S. College, Muzaffarpur and working under the "Registrar" of Baba Saheb Bhimrao Ambedkar Bihar University as "Mali".

... .. Petitioner/s

Versus

1. Vice-Chancellor, Baba Saheb Bhimrao Ambedkar Bihar University, Muzaffarpur.
2. Registrar, Baba Saheb Bhimrao Ambedkar Bihar University, Muzaffarpur
3. Deputy Registrar, Baba Saheb Bhimrao Ambedkar Bihar University, Muzaffarpur
4. Principal, Langat Singh College, Muzaffarpur
5. Baba Saheb Bhimrao Ambedkar Bihar University, Muzaffarpur through its Vice Chancellor
6. The State of Bihar through the Additional Chief Secretary, Education Department, Bihar, Patna.
7. The Secretary, Higher Education, Education Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar Manoj
For the Respondent/s	:	Mr. Vivekanand Singh
		Mr. Sarvesh Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

12 30-06-2026 Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. The instant writ application has been filed for quashing the order and as also the communication letter as contained in Memo No.389/R dated 19.04.2014, passed in respect of regularization of the services of the petitioner w.e.f. the date when the report of the Sub-Committee constituted by the Syndicate for regularization of the services of non-teaching



staff, including the petitioner, of the respondent-College was considered, with all consequential benefits. The petitioner has also prayed for release of wages for the period from February, 2008 till date along with interest thereon.

3. Learned counsel for the petitioner submits that the petitioner was initially appointed as a casual labour on the post of "Mali" on 01.01.1990 by the order of respondent no.4 and continued in service on the said post till 06.04.1998. It is the case of the petitioner that the issue of regularization was placed before the Syndicate on 20.03.2007 with regard to the services of non-teaching staff and the case of the petitioner was considered vide Item No.24. As per the decision taken by the Syndicate, a Sub-Committee was constituted for regularization of the services of non-teaching staff of the respondent-College and it was resolved that after examining the vacancy position and roster clearance, the case of the petitioner along with other non-teaching staff would be considered.

4. It is further submitted that the report of the Sub-Committee dated 16.05.2007 finds favour, but still, for unexplained reasons, the petitioner's regularization has not been made. It is submitted that the petitioner is presently discharging the duties of the post of Peon in the Chemistry Department. It



has next been submitted that the petitioner has been discharging the duties on the post for almost four decades and, as stated in the writ application, there are altogether 107 sanctioned posts available for non-teaching staff, out of which 48 posts are still vacant.

5. Counsel for the petitioner further submits, by referring to the decision taken by the Syndicate appended with the writ petition as Annexure-1 series, that though the case of the petitioner for regularization was placed before the Syndicate and the same has been rejected vide Memo No.389/R dated 19.04.2014. He accordingly submits that the decision of the Syndicate needs to be interfered with in view of the judgment rendered by the Hon'ble Apex Court in the case of *Shripal and Another v. Nagar Nigam, Ghaziabad* reported in **2025 SCC OnLine SC 221**, wherein it has been held that long and continuous engagement of workmen in perennial duties cannot be ignored merely because the initial engagement was irregular or because there was a ban on recruitment. The employer is under an obligation to consider regularization in accordance with law, particularly where the employees have served for a long period against work of a permanent nature.

6. Per contra, learned counsel for the University does



not controvert the factual position but, by referring to Annexure-1, submits that the case of the petitioner has been rejected for regularization. Further, by referring to paragraph-5 and 10 of the counter affidavit filed on behalf of the University, he submits that because of the financial implication likely to be incurred upon the State Government, the impugned rejection has been recorded in the case of the petitioner. The paragraph-5 and 10 of the counter affidavit is quoted hereunder for better appreciation:-

“ 5. That in this regard, it is submitted that from the averments made in the writ petition, the petitioner claims to have been engaged as a casual labour on the post of ‘Mali’ on 01.01.1990 by the Principal, L.S. College, Muzaffarpur (respondent no.4). However in support of his contention the petitioner has enclosed his engagement letter contained in Memo No.209 dated 06.04.1998 on wages @ Rs.40/- per day. Hence, whether the petitioner has been working w.e.f. 1990 cannot be conclusively determined.

10. That further it is also relevant to mention that the petitioner while claiming the relief of regularization of services ought to have made the Education Department of the State Government as party respondent in the present writ application, especially considering the financial implications involved in the matter. However, the petitioner has deliberately not included the State as a party to the present proceedings.”



7. At this stage, learned counsel for the State submits that since the Principal of the College had no authority to make such appointment and the petitioner was only entitled to remuneration, which amount has already been paid, in such event, the petitioner is not entitled to regularization.

8. The submissions of the learned State counsel with regard to the authority of the Principal to make such appointment are fit to be rejected in view of the recommendation made by the Syndicate, whereby the action of the Principal has already been approved by the University and appropriate directions by the syndicate for consideration were given to the Sub-Committee, which report also finds favour to the case of the petitioner.

9. Having considered the rival submissions and the materials available on record, this Court finds it appropriate to interfere with the order of rejection on the ground that the very induction of the petitioner was made in the year 1990 on the post of Mali and since then the petitioner has been continuing under the Class-IV category without the protection of any interim order passed by any Court or Tribunal, for more than a decade. Therefore, in view of the the judgment of the Hon'ble



Apex Court in *Secretary, State of Karnataka v. Umadevi and Others* reported in (2006) 4 SCC 1, which specifically provides that if a person has continued on a post without any protection or any intervention of the orders of the Courts or Tribunals, for a decade, such person is entitled to be considered for regularization. Paragraph 53 of the said judgment is reproduced hereunder:-

"53. 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 above referred 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 regularize 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 of 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 daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, 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."

10. The Hon'ble Apex Court in **Sukhendu Bhattacharjee & Ors. v. State of Assam & Ors. 2026 INSC 523** (Civil Appeal No. 4514 of 2025 and connected matters) has held that it is a settled principle that equals must be treated equally, and if persons similarly placed are treated differently without a rational basis, it would amount to a violation of Article 14 of the Constitution. If two sets of employees stand on the same footing in terms of date of engagement, nature of duties, length of service and eligibility under a declared policy, the State cannot extend a benefit to one large group and deny it to the smaller group without demonstrating a valid distinction. Equality does not allow selective or partial implementation of a policy. Once a policy decision is taken to benefit a defined class, it must be applied uniformly to all who satisfy the prescribed conditions.

11. Similarly in the case of **Jaggo v. Union of India and others** reported in **2024 SCC OnLine SC 3826**, the Hon'ble Supreme Court has reiterated that the employees labelled as temporary or part-time, but has continuous service over long periods, cannot be denied benefits available to other



regular employees merely on account of nomenclature and has held that such engagement is neither sporadic nor casual, but is in the nature of regular employment and thereby necessitating extension of all service benefits.

12. Furthermore, the directions in *Shripal (supra)* clearly entitle consideration of the case of the petitioner as per the parameters fixed therein. The petitioner has admittedly continued in service for several decades without any interference and is, therefore, entitled to consideration of his case for regularization. For better appreciation of the case the relevant paragraphs are being reproduced hereunder:-

“14. The Respondent Employer places reliance on Umadevi (supra) to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, Uma Devi itself distinguishes between appointments that are “illegal” and those that are “irregular,” the latter being eligible for regularization if they meet certain conditions. More importantly, Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment. Given the record which shows no true contractor-based arrangement and a consistent need for permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices.

15. It is manifest that the Appellant Workmen continuously rendered their services over



several years, sometimes spanning more than a decade. Even if certain muster rolls were not produced in full, the Employer's failure to furnish such records-despite directions to do so-allows an adverse inference under well-established labour jurisprudence. Indian labour law strongly disfavors perpetual dailywage or contractual engagements in circumstances where the work is permanent in nature. Morally and legally, workers who fulfil ongoing municipal requirements year after year cannot be dismissed summarily as dispensable, particularly in the absence of a genuine contractor agreement. At this juncture, it would be appropriate to recall the broader critique of indefinite "temporary" employment practices as done by a recent judgment of this court in Jaggo v. Union of India in the following paragraphs:

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

25. It is a disconcerting reality



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

** Misuse of “Temporary” Labels: Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labelled as “temporary” or “contractual,” even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.*

** Arbitrary Termination: Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.*

** Lack of Career Progression: Temporary employees often find themselves excluded from opportunities for skill*



development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.

** Using Outsourcing as a Shield: Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.*

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

13. Accordingly, the order passed by the University as contained in Memo No.389/R dated 19.04.2014 is set aside. The case of the petitioner is directed to be considered in accordance



with the parameters fixed by the Hon'ble Apex Court in the
aforementioned judgments. The necessary decision shall be
taken in the interest of justice and the same shall be
communicated to the petitioner on filing of a detailed
representation along with all supporting materials, including a
copy of this order, before the Vice Chancellor of the University
within a period of three weeks from today.

14. It is made clear that all such financial implication
which would arise before the University in directing
regularization shall be borne by the State Government and the
requisite requisition shall be made, keeping in mind that the
petitioner has been serving in the College since 1990. Further,
all consequential benefits which accrue to the petitioner on
account of regularization shall also be disbursed by the State, if
otherwise found admissible in law.

15. With the aforesaid observations and directions, the
instant writ application stands allowed.

(Ajit Kumar, J)

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