IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) Nos.19736,19730,19734 & 19737 of 2019
CNR No. ODHC010578742019

In the matter of an application under Article-226 & 227 of the Constitution of India

.....

Apurba Ranjan Mohanty & Others .... **Petitioners**

-versus-

Odisha Grameen Bank & Others .... **Opposite Parties**

For Petitioners : Ms. B. Senapati, Advocate

For Opp. Parties : M/s.K.C. Kanungo,Adv. (for the Bank)
Mr. A. Saa, CGC (for O.P. No.4)

PRESENT:

THE HONBLE MR.JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 17.09.2026 & Date of Judgment: 28.10.2026

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.

2. Since the issue raised in all the Writ Petitions is identical and challenge has been made to the rejection of the claim of the Petitioners to get the benefit of regularisation, all the Writ Petitions were heard analogously and disposed of by the present common order. However, for the sake of convenience, W.P.(C) No.19736 of 2019 is taken as the lead case and for the purpose of considering and noting down the pleadings.

3. It is the case of the Petitioner that all the Petitioners were engaged on temporary basis as Drivers, Sweepers, Messengers, DTP Operators, I.T Electrician, I.T Networking and Hardware Workers in Odisha Gramya Bank (now Odisha Grameen Bank) and on such engagement, they were allowed to continue on temporary basis.

3.1. It is contended that Odisha Grameen Bank (in short, "Bank") is having 500 branches all over the State and Petitioners were engaged on temporary basis in different branches of the Bank at different point of time. It is further contended that for such appointment of Officers and employees in different Regional Rural Banks,

though the provisions contained under the Regional Rural Banks (Appointment and Promotion of Officers and Other Employees) Rules, 1987 governs the field, but engagement of Sweepers and Messengers in various branches of the Opp. Party-Bank were never made, following the aforesaid provision. Rather engagement of Sweepers and Messengers in various branches of the Opp. Party-Bank were made through Contractor/Service Provider or at the sweet-will of the Manager of the concerned Branch.

3.2. It is contended that since such temporary Sweepers and Managers on the face of their continuance were not regularised, Workers Union of different Regional Rural Banks moved the Hon'ble Apex Court seeking regularisation of such Sweepers and Messengers and for allowing pay parity with the employees of the concerned sponsored bank. It is contended that Hon'ble Apex Court when directed the Central Government to constitute a Tribunal to consider the issue relating to pay parity, including regularisation of Sweepers and Messengers working in different Regional Rural Bank, in terms of the

said direction, Central Government constituted National Industrial Tribunal under the Chairmanship of Shri S. Obul Reddy, retired Chief Justice of the Andhra Pradesh High Court. The Tribunal after hearing the parties concerned, passed the award on 30.04.1990 and relevant extract of the award so reflected in para 4.410 reads as follows:

> ***"4.410*** *: In view of the authority pronouncements of the Supreme Court must be held that the part-time sweepers-cum-messengers who were employed on daily wages or on half of the salary or on some other proportion of the salary of a regular messenger, will be entitled to their various claims such as equal pay and all other attendant benefits as are admissible to regularly appointed full time messengers in the respective RRBs. That there was / is no sanctioned post of a regular messenger in a branch or the head office is absolutely irrelevant and immaterial in view of the proved facts that the so called part-time messengers, whether on daily wages or on some other basis, were made to work full time by their respective managements. The Managements cannot extract full time work and even beyond the working hours from the so called part-time messengers by merely showing them in the acquittance rolls as part-time employees paid on either daily wages or some other basis, or on some proportionate basis. Their services shall be regularized with effect from the date of their continuous engagement. necessary it will be open to the Government or the RRBs as the case may be, to sanction the required number of posts accommodate the writ petitioner and all those belonging to their class."*

3.3. Learned counsel appearing for the Petitioners contended that basing on the award passed by the

Tribunal on 30.04.1990, when similarly situated Sweepers and Messengers working in Cauvery Grameen Bank moved the High Court of Karnataka, seeking regularisation in their services from the date of their initial engagement, such claim was allowed by the High Court of Karnataka vide its judgment dtd.03.03.2006, further confirmed in Writ Appeal No.630 of 2006, basing on the compromise effected between the Bank and the Union of Cauvery Grameen Bank vide order dtd.27.07.2006 under Annexure-5 series.

3.4. It is contended that similar Writ Petitions filed by the Sweepers and Messengers of Chaitanya Godavari Grameena Bank when were moved before the High Court of Andhra Pradesh, such claim was not only allowed vide judgment dtd.27.12.2017 under Annexure-2, in W.P.(C) No.24779 of 2011, but also implemented.

3.5. Not only that, similar claim of Sweepers, Attenders, Messengers working under Andhra Pradesh Grameena Vikas Bank following the order in W.P.(C) No.24779 of 2011, when was allowed vide a common judgment in W.P.(C) No. 15284 of 2014 and batch so passed on

dtd.09.01.2020, the same was challenged by the Bank in W.A No.147 of 2021 and batch. But all such appeals were dismissed vide a common judgment dtd.25.04.2022 under Annexure-6 series. The bank though assailed the judgment before the Apex Court in Special Leave to Appeal (Civil) No.12973 of 2022, but the same was also dismissed vide order dtd.22.08.2022 under Annexure-7.

3.6. It is also contended that similar claim of daily wage employees working in Chhatisgarh Rajya Grameen Bank was allowed in a batch of Writ Petitions in W.P.(C) No.4092 of 2019 and batch vide judgment dtd.22.08.2022, wherein the bank was directed to frame a Scheme from such regularisation of the daily wage employees under Annexure-9. Similar claim was also allowed by the High Court at Tripura in W.P.(C) No.321 of 2020 vide judgment dtd.16.08.2022 under Annexure-10.

3.7. Learned Counsel appearing for the Petitioners contended that in view of the nature of the award passed by the National Industrial Tribunal on being so constituted as per the direction of the Hon'ble Apex Court and order passed by the High Court of Karnataka, Andhra

Pradesh as well as High Court of Chhatisgarh and Tripura, the present Petitioners claiming similar benefit of regularisation, moved this Court in W.P.(C) No.3325 of 2019. This Court vide its order dtd.14.02.2019 under Annexure-3, while disposing the same, permitted the Petitioners to move the Opp. Party-Bank in ventilating their grievances and with a direction on the Opp. Party-Bank to consider and pass appropriate order in the light of the judgment passed in the case of ***Uma Devi, M.L. Keshari, Amarkanta Ray*** and so also the decision of the Andhra Pradesh High Court.

3.8. Hon'ble Apex Court in the case of ***Uma Devi*** in Para-44 of the said judgment has held as follows:-

> ***"44****. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa (supra), R.N. Nanjundappa (supra) and B.N. Nagarajan (Supra), and referred to in paragraph-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 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 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 wages are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not subjudice, need not be reopened based on this judgement, but there should be no further by passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

3.9. Similarly, Hon'ble Apex Court in the case of ***M.L. Keshari*** in Para- 8 and 13 of the said judgment has held as follows:-

*"**8**. Umadevi (3) casts a duty upon the Government or instrumentality concerned, to take steps to regularise the services of those irregularly appointed employees who had served for more than ten years without the benefit or protection of any interim orders of courts or tribunals, as a one-time measure. Umadevi (3) directed that such onetime measure must be set in motion within six months from the date of its decision (rendered on 10-4-2006).*

***13.** The Division Bench of the High Court has directed that the cases of the respondents should be considered in accordance with law. The only further direction that needs to be given, in view of Umadevi (3), is that the Zila Panchayat, Gadag should not undertake an exercise within six months, as a general one-time regularisation exercise, to find out whether there are dailywage/casual/adhoc employees serving the Zila Panchayat and if so whether such employees (including the respondents) fulfil the requirements mentioned in para-53 of Umadevi (3). If they fulfill them, their services have to be regularised. If such an exercise has already been undertaken by ignoring or omitting the cases of Respondents 1 to 3 because of the pendency of these cases, then their cases shall*

have to be considered in continuation of the said one-time exercise within three months. It is needless to say that if the respondents do not fulfill the requirements of para 53 of Umadevi (3), their services need not be regularised. If the employees who have completed ten years' service do not possess the educational qualifications prescribed for the post, at the time of their appointment, they may be considered for regularisation in suitable lower posts."

3.10. Hon'ble Apex Court in the case of ***Amarkanti Rai***, in Para-8, 9 & 11 to 14 has held as follows:-

"8. *Insofar as contention of the respondent that the appointment of the appellant was made by the Principal who is not a competent authority to make such appointment and is in violation of the Bihar State Universities Act and hence the appointment is illegal appointment, it is pertinent to note that the appointment of the appellant as night guard was done out of necessity and concern for the College. As noticed earlier, the Principal of the College vide letters dated 11-3-1988, 7-1-1993, 8-1- 2002 and 12-7-2004 recommended the case of the appellant for regularisation on the post of night guard and the University was thus well acquainted with the appointment of the appellant by the then Principal even though the Principal was not a competent authority to make such appointments and thus the appointment of the appellant and other employees was brought to the notice of the University in 1988. In spite of that, the process for termination was initiated only in the year 2001 and the appellant was reinstated w.ef. 3-1-2002 and was removed from services finally in the year 2007. As rightly contended by the learned counsel for the appellant, for a considerable time, the University never raised the issue that the appointment of the appellant by the Principal is ultra vires the rules of the BSU Act. Having regard to the various communications between the Principal and the University and also the educational authorities and the facts of the case, in our view, the appointment of the appellant cannot be termed to be illegal, but it can only be termed as irregular.*

9. *The Human Resources Development, Department of Bihar Government, vide its Letter dated 11-7-1989 intimated to the Registrar of all the Colleges that as per the settlement dated 26-4-1989 held between Bihar State University and College Employees' Federation and the Government it was agreed that the services of the employees working in the educational institutions on the basis of prescribed staffing pattern are to be regularised. As per sanctioned staffing partien, in Ramashray Baleshwar College, there were two vacant posts of Class IV employees and the appellant was appointed against the same. Further, Resolution No. 989 dated 10-5-1991 issued by the Human Resources Development Department provides that employee working up to 10-5-1986 shall be adjusted against the vacancies arising in future. Although, the appellant was appointed in 1983 temporarily on the post that was not sanctioned by the State Government, as per the above communication of the Human Resources Development Department, it is evident that the State Government issued orders to regularise the services of the employees who worked up to 10-5-1986. In our considered view, the High Court ought to have examined the case of the appellant in the light of the various communications issued by the State Government and in the light of the circular, the appellant is eligible for consideration for regularisation.*

XXX XXX XXX

11. *Elaboration upon the principles laid down in Umadevi (3) Case and explaining the difference between irregular and illegal appointments in State of Karnataka Vs. M.L Kesari, this Court held as under (ML Kesari case SSC p 250, para 7) 7. It is evident from the above that there is an exception to the general principles against 'regularisation enunciated in Umadevi (3). if the following conditions are fulfilled: (i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years. (ii) The appointment of such employee should not be illegal, even if irregular Where the appointments are not made*

or continued against sanctioned posts or where the persons appointed do not possesses the prescribed minimum qualifications, the appointments will be considered to be illegal., But where the persons employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive selection, such appointments are considered to be irregular."

12. *Applying the ratio of Umadevi (3) case, this Court in Nihal Singh v. State of Punjab directed the absorption of the Special Police Officers in the services of the State of holding as under: (Nihal Singh Case, SCC pp. 79-80, paras- 35-36) "35. Therefore, it is clear that the existence of the need for creation of the posts is a relevant factor with reference to which the executive government is required to take rational decision based on relevant consideration. In our opinion, when the facts such as the ones obtaining in the instant case demonstrate that there is need for the creation of posts, the failure extracting work from persons such as the appellants herein for decades together itself would he arbitrary action (inaction) on the part of the State. 36. The other factor which the State is required to keep in mind while creating or abolishing posts is the financial implications involved in such a decision. The creation of posts necessarily means additional financial burden on the exchequer of the State. Depending upon the priorities of the State, the allocation of the finances is no doubt exclusively within the domain of the legislature. However in the instant case creation of new posts would not create any additional financial burden to the State as the Various banks at whose disposal the services of each of the appellants is made available have agreed to bear the burden. If absorbing the appellants into the services of the State and providing benefits on a par with the police officers of similar rank employed by the State results in the banks to meet such additional burden Apparently no such demand has ever been made by the State. The result is the various banks which avail the services of these appellants enjoy the supply of cheap labour over a period of decades. It is also pertinent to notice that these banks are public sector banks*

13. *In our view, the exception carved out in para 53 of Umadevi (3)3 is applicable to the facts of the present case. There is no material placed on record by the respondents that the appellant has been lacking any qualification or bore any blemish record during his employment for over two decades. It is pertinent to note that services of similarly situated persons on daily wages for regularisation viz. one Yatindra Kumar Mishra who was appointed on daily wages on the post of Clerk was regularised w.e.f. 1987. The appellant although initially working against unsanctioned post, the appellant was working continuously since 3-1-2002 against sanctioned post. Since there is no material placed on record regarding the details whether any other night guard was appointed against the sanctioned post, in the facts and circumstances of the case, we are inclined to award monetary benefits to be paid from 1.-1-2010.*

14. *Considering the facts and circumstances of the case that the appellant has served the University for more than 29. years of the post of night guard and that he has served the College on daily wages, in the interest of justice, the authorities are directed to regularise the services of the appellant retrospectively w.ef. 3-1-2002 (the date on which he rejoined the post as per the direction of the Registrar).”*

3.11. It is contended that in terms of such order passed by this Court in W.P.(C) No.3325 of 2019, Petitioners though raised their grievance by making a common representations on 07.03.2019, but such claim of the Petitioners was rejected vide the common impugned order dtd.27.05.2019 under Annexure-4 series.

3.12. It is contended that claim of the Petitioners to get the benefit of regularisation was rejected by Opp. Party No.1 only on the ground that Petitioners were never

engaged with due issuance of any letter of engagement/appointment and they were never engaged in terms of any notification issued by the Bank at any point of time. Claim of the Petitioners was also rejected on the ground that it is not covered as per the decisions of the Hon'ble Apex Court in the case of ***Uma Devi*** so also the judgment of the Andhra Pradesh High Court, confirmed by the Apex Court.

3.13. While assailing the impugned rejection of the Petitioners' claim so made vide order dtd.27.05.2019 under Annexure-4 series, learned counsel appearing for the Petitioners contended that Petitioners since are continuing as Sweepers, Messengers, Attenders and in other capacity in various batches of the Opp. Party-Bank, in view of the decision passed by the National Industrial Tribunal, so followed by the High Court of Karnataka, Andhra Pradesh, Chhatisgarh and so also the State of Tripura, Petitioners being similarly situated, they are also eligible and entitled to get the benefit of regularisation. However, without proper appreciation of the judgment of the Hon'ble Apex Court in the case of ***Uma Devi*** and so

also the order passed by the High Court of Andhra Pradesh, confirmed by the Apex Court under Annexure-7, claim of the Petitioners was rejected by Opp. Party No.1 under Annexure-4 series vide similar nature of order on 27.05.2019. It is accordingly contended that since Petitioners are similarly situated as like the Petitioners before the High Court of Andhra Pradesh as well as Chhatisgarh, with quashing of the impugned rejection dtd.27.05.2019, Opp. Party-Bank be directed to frame a Scheme and regularise the services of the Petitioners in due course of time. It is further contended that till such regularisation of their services, the interim order passed in each of the Writ Petitions be allowed to continue.

4. Mr. Kailash Chandra Kanungo, learned counsel appearing for the Opp. Party-Bank in the batch of Writ Petitions on the other hand made his submission basing on the stand taken in the counter affidavit so filed.

4.1. It is first of all contended by the learned counsel appearing for the Opp. Party-Bank that the Writ Petition is not maintainable, as most of the Petitioners made their claim to get the benefit of regularisation, after continuing

for around 2 to 5 years on temporary basis in different branches of the Bank. He further contended that by the time Petitioners raised the claim for regularisation, since they had not completed the required years of service in terms of the decision of the Apex Court in the case of ***Uma Devi*** so cited supra, Petitioners are not eligible and entitled to get the benefit of regularisation, which has been rightly rejected vide the impugned common order dtd. 27.05.2019 under Annexure-4 series. It is also contended that after such rejection of the claim of the Petitioners vide the impugned order, Petitioners are continuing as on date, because of the interim order passed by this Court in each of the Writ Petitions. It is accordingly contended that since Petitioners are only continuing because of the interim order passed by this Court, their claim is not covered as per the decision of the Apex Court in the case of Uma Devi.

4.2. It is also contended that similar claim made before this Court in W.P.(C) No.1276 of 2014 was not entertained and Petitioners therein were permitted to approach the Industrial Tribunal to get the benefit of

regularisation vide judgment dtd.15.05.2024. It is further contended that since Petitioners' initial engagement is in absence of any notification issued by the Bank at any point of time and Petitioners were so engaged by the different branches of the Bank without following due process of selection, Petitioners are not eligible and entitled to get the benefit of regularisation.

4.3. It is also contended that decisions rendered by the High Court of Andhra Pradesh is not applicable to the facts of the present case, as the decision rendered by the Apex Court in the case of ***Uma Devi*** governs the issue with regard to regularisation of a temporary employee. Not only that there is no such post as Driver, Sweeper, Messengers, DTP Operators, IT Electrician, IT networking and Hardware Worker under the provision of Regional Ruler Bank(Appointment of Officers' and Employees') Rules, 2010 as well as 2017. Since the posts in which Petitioners are continuing are not available under the Rules, no order of regularisation can be issued as against those posts.

4.4. It is also contended that Petitioners are all working on part-time basis and payments are being made by the concerned branch from their sundry account. It is accordingly contended that since the Petitioners as per the requirement of the concerned branch are working on part-time basis, they are not eligible to get the benefit of regularisation and the Writ Petitions are liable for dismissal.

4.5. While making all these submissions, learned counsel appearing for the Opp. Party-Bank relied on the following decisions:

1. Secretary, State of Karnataka Vrs. Uma Devi and Others, 2006 SCC (L & S) 753, para 37,43, & 53

2. Nanda Kumar Vs. State of Bihar & Others, Civil Appeal No.2835 of 2014, disposed of on 25.02.2014, para 18 to 23

3. Upendra Singh Vs. State of Bihar & Others, Civil Appeal NO.2356 of 2018, disposed of on 23.02.2018, para 7 & 8

4. Vibhuti Shankar Pandey Vs. State of Madhya Pradesh & Others, Civil Appeal NO.916 of 2023, disposed of on 08.02.2023, Para-3 & 4

5. Himansu Parida and Others Vs. Union of India and Others, W.P.(C) No.1276 of 2014, disposed of on 24.07.2024., Para-13.

4.6. Hon'ble Apex Court in the case of ***Uma Devi*** in para 37,43, & 53 of the said judgment has held as follows:

> ***37.*** *It is not necessary to multiply authorities on this aspect. It is only necessary to refer to one or two of the recent decisions in this context. In State of U.P. v. Neeraj Awasthi [(2006) 1 SCC 667 : 2006 SCC (L&S) 190] this Court after referring to a number of prior decisions held that there was no power in the State under Article 162 of the Constitution to make appointments and even if there was any such power, no appointment could be made in contravention of statutory rules. This Court also held that past alleged regularisation or appointment does not connote entitlement to further regularisation or appointment. It was further held that the High Court has no jurisdiction to frame a scheme by itself or direct the framing of a scheme for regularisation. This view was reiterated in State of Karnataka v. KGSD Canteen Employees' Welfare Assn. [(2006) 1 SCC 567 : 2006 SCC (L&S) 158 : JT (2006) 1 SC 84]*
>
> ***43.*** *Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is*

continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. The High Courts acting under Article 226 of the Constitution, should not ordinarily issue directions for absorption, regularisation, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because an employee had continued under cover of an order of the court, which we have described as "litigious employment" in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates.

53. *One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa [(1967) 1 SCR 128 : AIR 1967 SC 1071] , R.N. Nanjundappa [(1972) 1 SCC 409 : (1972) 2 SCR 799] and B.N. Nagarajan [(1979) 4 SCC 507 : 1980 SCC (L&S) 4 : (1979) 3 SCR 937] 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 regularisation 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 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 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.

4.7. Hon'ble Apex Court in the case of ***Nanda Kumar*** in para 18,19,20,21,22 & 23 of the said judgment has held as follows:

18. We have also noticed that Constitution Bench of this Court in paras 44, 45 & 47 of Umadevi (supra) held :
"44. The concept of "equal pay for equal work" is different from the concept of conferring permanency on those who have been appointed on ad hoc basis, temporary basis, or based on no process of selection as envisaged by the rules. This Court has in various decisions applied the principle of equal pay for equal work and has laid down the parameters for the application of that principle. The decisions are rested on the concept of equality enshrined in our Constitution in the light of the directive principles in that behalf. But the acceptance of that principle cannot lead to a position where the court could direct that appointments made without following the due procedure established by law, be deemed permanent or issue directions to treat them as permanent. Doing so, would be negation of the principle of equality of opportunity. The power to make an order as is necessary for doing complete justice in any cause or matter pending before this Court, would not normally be used for giving the go-by to the procedure established by law in the matter of public employment. Take the situation arising in the cases before us from the State of Karnataka. Therein, after the decision in Dharwad District PWD Literate Daily Wage Employees Assn. v. State of Karnataka [1990 (2) SCC 396], the Government had issued repeated directions and mandatory orders that no temporary or ad hoc employment or engagement be given. Some of the authorities and departments had ignored those directions or defied those

directions and had continued to give employment, specifically interdicted by the orders issued by the executive. Some of the appointing officers have even been punished for their defiance. It would not be just or proper to pass an order in exercise of jurisdiction under Article 226 or 32 of the Constitution or in exercise of power under Article 142 of the Constitution permitting those persons engaged, to be absorbed or to be made permanent, based on their appointments or engagements. Complete justice would be justice according to law and though it would be open to this Court to mould the relief, this Court would not grant a relief which would amount to perpetuating an illegality.

45. While directing that appointments, temporary or casual, be regularized or made permanent, the courts are swayed by the fact that the person concerned has worked for some time and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with open eyes. It may be true that he is not in a position to bargain -- not at arm's length -- since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible. If the court were to void a contractual employment of this nature on the ground that the parties were not having equal bargaining power, that too would not enable the court to grant any relief to that employee. A total embargo on such casual or temporary employment is not possible, given the exigencies of administration and if imposed, would only mean that some people who at least get employment temporarily, contractually or casually, would not be getting even that employment when securing of such employment brings at least some succour to them. After all, innumerable citizens of our vast country are in search of employment and one is not compelled to accept a casual or temporary employment if one is not inclined to go in for such an employment. It is in that context that one has to proceed on the basis that the employment was accepted fully knowing the nature of it and the consequences flowing from it. In other words, even while accepting the employment, the person concerned knows the nature of his employment. It is not an appointment to a post in the real sense of the term. The claim acquired by him in the post in

which he is temporarily employed or the interest in that post cannot be considered to be of such a magnitude as to enable the giving up of the procedure established, for making regular appointments to available posts in the services of the State.

The argument that since one has been working for some time in the post, it will not be just to discontinue him, even though he was aware of the nature of the employment when he first took it up, is not one that would enable the jettisoning of the procedure established by law for public employment and would have to fail when tested on the touchstone of constitutionality and equality of opportunity enshrined in Article 14 of the Constitution.

x x x *x x x* *xxx*

47. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in cases concerned, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post."

19. Therefore, considering the facts of the present case, it appears to us that the appellants were never appointed through a proper procedure. It is not in dispute that they all served as daily wagers. Therefore, it was within their knowledge all the consequences of appointment being temporary, they cannot have even a right to invoke the theory of legitimate expectation for being confirmed in the post. Accordingly, we cannot accept the contention of the appellants in the matter. We have further considered the case of the appellants in the light of Section 6 of the Repeal Act which has made it clear that the employees of the Board and the appellants cannot be said to be of the same status

and cannot enjoy the benefit given under Section 6(i) of the Repeal Act, 2006. Therefore, we are unable to accept the contention that the daily wagers would also come within the meaning of "all officers and employees" as specifically stated in Section 6 of the Repeal Act. In these circumstances, we are unable to accept the submission of learned senior counsel appearing on behalf of the appellants.

We have also considered the decision in M.L.Kesari (supra) of this Court which deals with the exception contained in para 53 of Umadevi (supra) but considering the facts of this case, we do not have any hesitation to hold that the said decisions can not be a help to the appellants.

20. We have heard learned counsel for the parties. We have also perused the records placed before us. We find that the status of the appellants was continuing to be as daily wagers. They cannot be treated as permanent Government employees. They all worked as employees of the Board. We have also found that no steps were followed by the Board to safeguard the service of these appellants. We have not been able to find out whether any advertisement was issued by the Government to regularise them. In these circumstances, in view of the submission which has been advanced on behalf of the appellants, we do not find that there is any substance in the matter/arguments put forwarded before us on behalf of the appellants as we have been able to find out that the appellants have served as daily wagers and we do find that Section 6(i) makes it clear that after the repeal of the Agriculture Produce Act, 1960, all officers and employees of the Board are to continue in employment and they shall continue to be paid what they were getting earlier as salary and allowance till such time the State Government takes an official decision as per the further provisions of Section 6. Such provision certainly allows continuance of the officers and employees of the Board to continue in employment in the same status. The status of the daily wage employees and regular employees of the Board is eminent from the said provision. It cannot be said that the status of the daily wage employees can enjoy or acquire the same status as that of the regular employees. In these circumstances, we do not find that there was any discrimination between the daily wage employees and the regular employees as is tried to be contended before us. Therefore, such submission has no substance, in our opinion, for the reason that the difference continues and is recognised under the said provision of the Repeal Act. So far as the power of the Committee of Secretaries constituted in

terms of section 6(ii) of the Repeal Act is concerned, it is to prepare a scheme of absorption as well as of retirement, compulsory retirement or voluntary retirement and other service conditions of officers and employees of the Board. In our opinion, the scheme which was prepared by the Committee of Secretaries is only in the nature of recommendation and the State has the power either to accept, modify or amend the same before granting its official approval. Therefore, after the sanction is granted by the Government in respect of the said scheme, it would gain the status of statutory scheme framed under the said Act and would be enforced within the time to be indicated in section 6(iii) of the Repeal Act, 2006.

21. Therefore, in the light of the said provision, we do not find that the Committee of Secretaries can be faulted in treating the daily wage employees on a different footing and deciding for removal of their services.

22. We have consciously noted the aforesaid decisions of this Court. The principle as has been laid down in Umadevi (supra) has also been applied in relation to the persons who were working on daily wages. According to us, the daily wagers are not appointees in the strict sense of the term 'appointment'. They do not hold a post. The scheme of alternative appointment framed for regular employees of abolished organisation cannot, therefore, confer a similar entitlement on the daily wagers of abolished organisation to such alternative employment. [See Avas Vikas Sansthan v. Avas Vikas Sansthan Engineers Association (2006 (4) SCC 132)]. Their relevance in the context of appointment arose by reason of the concept of regularisation as a source of appointment. After Umadevi (supra), their position continued to be that of daily wagers. Appointment on daily wage basis is not an appointment to a post according to the rules. Usually, the projects in which the daily wagers were engaged, having come to an end, their appointment is necessarily terminated for want of work. Therefore, the status and rights of daily wagers of a Government concern are not equivalent to that of a Government servant and his claim to permanency has to be adjudged differently.

23. In these circumstances, in our considered opinion, the regularisation/absorption is not a matter of course. It would depend upon the facts of the case following the rules and regulations and cannot be de hors the rules for such regularisation/absorption.

18. We have also noticed that Constitution Bench of this Court in paras 44, 45 & 47 of Umadevi (supra) held :

"44. The concept of "equal pay for equal work" is different from the concept of conferring permanency on those who have been appointed on ad hoc basis, temporary basis, or based on no process of selection as envisaged by the rules. This Court has in various decisions applied the principle of equal pay for equal work and has laid down the parameters for the application of that principle. The decisions are rested on the concept of equality enshrined in our Constitution in the light of the directive principles in that behalf. But the acceptance of that principle cannot lead to a position where the court could direct that appointments made without following the due procedure established by law, be deemed permanent or issue directions to treat them as permanent. Doing so, would be negation of the principle of equality of opportunity. The power to make an order as is necessary for doing complete justice in any cause or matter pending before this Court, would not normally be used for giving the go-by to the procedure established by law in the matter of public employment. Take the situation arising in the cases before us from the State of Karnataka. Therein, after the decision in Dharwad District PWD Literate Daily Wage Employees Assn. v. State of Karnataka [1990 (2) SCC 396], the Government had issued repeated directions and mandatory orders that no temporary or ad hoc employment or engagement be given. Some of the authorities and departments had ignored those directions or defied those directions and had continued to give employment, specifically interdicted by the orders issued by the executive. Some of the appointing officers have even been punished for their defiance. It would not be just or proper to pass an order in exercise of jurisdiction under Article 226 or 32 of the Constitution or in exercise of power under Article 142 of the Constitution permitting those persons engaged, to be absorbed or to be made permanent, based on their appointments or engagements. Complete justice would be justice according to law and though it would be open to this Court to mould the relief, this Court would not grant a relief which would amount to perpetuating an illegality.

45. While directing that appointments, temporary or casual, be regularized or made permanent, the courts are swayed by the fact that the person concerned has worked for some time and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with open eyes. It may be true that he is not in a position to bargain --

not at arm's length -- since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible. If the court were to void a contractual employment of this nature on the ground that the parties were not having equal bargaining power, that too would not enable the court to grant any relief to that employee. A total embargo on such casual or temporary employment is not possible, given the exigencies of administration and if imposed, would only mean that some people who at least get employment temporarily, contractually or casually, would not be getting even that employment when securing of such employment brings at least some succour to them. After all, innumerable citizens of our vast country are in search of employment and one is not compelled to accept a casual or temporary employment if one is not inclined to go in for such an employment. It is in that context that one has to proceed on the basis that the employment was accepted fully knowing the nature of it and the consequences flowing from it. In other words, even while accepting the employment, the person concerned knows the nature of his employment. It is not an appointment to a post in the real sense of the term. The claim acquired by him in the post in which he is temporarily employed or the interest in that post cannot be considered to be of such a magnitude as to enable the giving up of the procedure established, for making regular appointments to available posts in the services of the State.

The argument that since one has been working for some time in the post, it will not be just to discontinue him, even though he was aware of the nature of the employment when he first took it up, is not one that would enable the jettisoning of the procedure established by law for public employment and would have to fail when tested on the touchstone of constitutionality and equality of opportunity enshrined in Article 14 of the Constitution.

x x x *x x x* *xxx*

47. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware

of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in cases concerned, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post."

19. Therefore, considering the facts of the present case, it appears to us that the appellants were never appointed through a proper procedure. It is not in dispute that they all served as daily wagers. Therefore, it was within their knowledge all the consequences of appointment being temporary, they cannot have even a right to invoke the theory of legitimate expectation for being confirmed in the post. Accordingly, we cannot accept the contention of the appellants in the matter. We have further considered the case of the appellants in the light of Section 6 of the Repeal Act which has made it clear that the employees of the Board and the appellants cannot be said to be of the same status and cannot enjoy the benefit given under Section 6(i) of the Repeal Act, 2006. Therefore, we are unable to accept the contention that the daily wagers would also come within the meaning of "all officers and employees" as specifically stated in Section 6 of the Repeal Act. In these circumstances, we are unable to accept the submission of learned senior counsel appearing on behalf of the appellants.

We have also considered the decision in M.L.Kesari (supra) of this Court which deals with the exception contained in para 53 of Umadevi (supra) but considering the facts of this case, we do not have any hesitation to hold that the said decisions can not be a help to the appellants.

20. We have heard learned counsel for the parties. We have also perused the records placed before us. We find that the status of the appellants was continuing to be as daily wagers. They cannot be treated as permanent Government employees. They all worked as employees of the Board. We have also found that no steps were followed by the Board to

safeguard the service of these appellants. We have not been able to find out whether any advertisement was issued by the Government to regularise them. In these circumstances, in view of the submission which has been advanced on behalf of the appellants, we do not find that there is any substance in the matter/arguments put forwarded before us on behalf of the appellants as we have been able to find out that the appellants have served as daily wagers and we do find that Section 6(i) makes it clear that after the repeal of the Agriculture Produce Act, 1960, all officers and employees of the Board are to continue in employment and they shall continue to be paid what they were getting earlier as salary and allowance till such time the State Government takes an official decision as per the further provisions of Section 6. Such provision certainly allows continuance of the officers and employees of the Board to continue in employment in the same status. The status of the daily wage employees and regular employees of the Board is eminent from the said provision. It cannot be said that the status of the daily wage employees can enjoy or acquire the same status as that of the regular employees. In these circumstances, we do not find that there was any discrimination between the daily wage employees and the regular employees as is tried to be contended before us. Therefore, such submission has no substance, in our opinion, for the reason that the difference continues and is recognised under the said provision of the Repeal Act. So far as the power of the Committee of Secretaries constituted in terms of section 6(ii) of the Repeal Act is concerned, it is to prepare a scheme of absorption as well as of retirement, compulsory retirement or voluntary retirement and other service conditions of officers and employees of the Board. In our opinion, the scheme which was prepared by the Committee of Secretaries is only in the nature of recommendation and the State has the power either to accept, modify or amend the same before granting its official approval. Therefore, after the sanction is granted by the Government in respect of the said scheme, it would gain the status of statutory scheme framed under the said Act and would be enforced within the time to be indicated in section 6(iii) of the Repeal Act, 2006.

21. Therefore, in the light of the said provision, we do not find that the Committee of Secretaries can be faulted in treating the daily wage employees on a different footing and deciding for removal of their services.

22. We have consciously noted the aforesaid decisions of this Court. The principle as has been laid down in Umadevi

(supra) has also been applied in relation to the persons who were working on daily wages. According to us, the daily wagers are not appointees in the strict sense of the term 'appointment'. They do not hold a post. The scheme of alternative appointment framed for regular employees of abolished organisation cannot, therefore, confer a similar entitlement on the daily wagers of abolished organisation to such alternative employment. [See Avas Vikas Sansthan v. Avas Vikas Sansthan Engineers Association (2006 (4) SCC 132)]. Their relevance in the context of appointment arose by reason of the concept of regularisation as a source of appointment. After Umadevi (supra), their position continued to be that of daily wagers. Appointment on daily wage basis is not an appointment to a post according to the rules. Usually, the projects in which the daily wagers were engaged, having come to an end, their appointment is necessarily terminated for want of work. Therefore, the status and rights of daily wagers of a Government concern are not equivalent to that of a Government servant and his claim to permanency has to be adjudged differently.

23. In these circumstances, in our considered opinion, the regularisation/absorption is not a matter of course. It would depend upon the facts of the case following the rules and regulations and cannot be de hors the rules for such regularisation/absorption.

4.8. Hon'ble Apex Court in the case of ***Upendra Singh*** in para 7 & 8 of the said judgment has held as follows:

7. *After considering the respective arguments, we are of the view that the impugned judgment is without any blemish and no interference is called for. In fact, the whole premise on which the case is founded by the appellant seems to be incorrect. We note that the cases of these persons, including the appellant, were duly considered by the University, on the basis of which order dated 13-8-2003 were passed refusing regularisation. This order specifically states that the initial appointment of the appellant and others was not in accordance with law. It was made without advertisement and there was no recommendation of panel by the Selection Committee. So much so, the appointments were not made by the competent authority. We find that the University, or for that matter, the Government had agreed to regularise the services of those employees of the colleges, which had*

become the Constituent Colleges, only on the condition that their initial appointment was after following the due procedure and that too against the sanctioned post. A statement was made at the Bar by the learned counsel for the respondent that there were no sanctioned posts even now.

8. *The law pertaining to regularisation has now been authoritatively determined by a Constitution Bench judgment of this Court in State of Karnataka v. Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] . On the application of law laid down in that case, it is clear that the question of regularisation of daily wager appointed contrary to law does not arise. This ratio of the judgment could not be disputed by the learned counsel for the appellant as well. That is why she continued to plead that the appointment of the appellant was made after following due procedure and in accordance with law. However, that is not borne out from the records. Pertinently, order dated 13-8-2003, vide which the appellant was refused regularisation on the aforesaid ground was not even assailed by the appellant at that time. It may be mentioned that in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , the Court left a small window opened for those who were working on ad hoc/daily-wage basis for more than ten years, to regularise them as a one-time measure. However, that was also subject to the condition that they should have been appointed in duly sanctioned post. Further, while counting their ten years' period, those cases were to be excluded where such persons continued to work under the cover of orders of the courts or the tribunal. The High Court has, in the impugned judgment, discussed these nuances and has also referred to the judgment in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] and held that the benefit of one-time measure suggested in that case could not be extended to the appellant because of the following reasons: (Nand Lal Bhagat case [Nand Lal Bhagat v. State of Bihar, 2013 SCC OnLine Pat 1568] , SCC OnLine Pat paras 11-13)*

"11. The appellants clearly fall in the exception noticed in para 53 of Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] as their claims were sub judice on the date the pronouncement of the Constitution Bench was made in view of pendency of CWJC No. 12235 of

2005 disposed subsequently on 29-8-2006 [Suresh Yadav v. State of Bihar, 2006 SCC OnLine Pat 796 : (2006) 4 PLJR 77] . Such litigious continuation in employment stands excluded from the directions of Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] .

12. The appellants claim to have been regularised within the staffing pattern. In our opinion, it is not the crux of the matter. The crucial question is if their initial appointment by the Managing Committee was in consonance with Article 14 of the Constitution of India by open advertisement and competitive merit selection. On account of various interpretations by more than one Bench of M.L. Kesari [State of Karnataka v. M.L. Kesari, (2010) 9 SCC 247 : (2010) 2 SCC (L&S) 826] reference was made to the Full Bench. We have already noticed from the order refusing regularisation dated 13-8-2003 that the appointment of the appellants on daily wage was not in consonance with the law.

13. The conclusion in Ram Sevak Yadav [Ram Sevak Yadav v. State of Bihar, 2013 SCC OnLine Pat 67 : (2013) 1 PLJR 964] at para 43 is as follows: (SCC OnLine Pat)

'43. (A) Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] prohibits regularisation of daily wage, casual, ad hoc, and temporary appointments, the period of service being irrelevant;

(B) An illegal appointment void ab initio made contrary to the mandate of Article 14 without open competitive selection cannot be regularised under any circumstances.

(C) Irregular appointments can be regularised if the appointment was made by an authority competent to do so, it was made on a vacant sanctioned post, in accordance with Article 14 of the Constitution with equal opportunity for participation to others eligible by competitive selection and the candidate possessed the eligibility qualifications for a regular appointment to the post.

(D) The appointment must not have been an individual favour doled out to the appointee alone and the person must have continued in service for over ten years without intervention of any court orders.'"

4.9. Hon'ble Apex Court in the case of ***Vibhuti Shankar Pandey*** in para 3 & 4 of the said judgment has held as follows:

> *3. The case of the appellant is that he was engaged in 1980 as a Supervisor, on daily rated basis, under a project Date: 2023.02.08 16:38:38 IST Reason:*
>
> *State Water Resources Department of Madhya Pradesh. The appellant sought regularization on the post of Supervisor/Time Keeper. Admittedly, the minimum qualification for the said post was matriculation with mathematics; a qualification which the appellant did not possess. These qualifications were relaxed by a Government Circular dated 31.12.2010 and the appellant sought his regularization on the post of Supervisor/Time Keeper, as he was qualified for the post and had been working on daily wage basis for a long period of time. In fact, in another writ petition (W.P. 13997/2010) filed by the appellant earlier, the High Court of Madhya Pradesh vide order dated 02.11.2017, had given directions to the State Government to decide the claim of the writ petitioner in accordance with law. Vide order dated 18.06.2018 issued by the Office of Chief Engineer, Rani Avanti Bai Lodhi Sagar Project, the claim of the appellant for regularization was rejected for the reasons that though the minimum qualifications of matriculation with mathematics will not come in the way for his regularization, but the fact remains that the appellant was never appointed against any post. Moreover, his appointment was never made by the competent authority and there were no posts available at the time for regularization. The appellant on the other hand, had set his claim for regularization as persons who were junior to him as daily wagers were regularized in the year 1990 or even before. The learned Single Judge while allowing the writ petition gave directions for regularization of the appellant from the date on which his juniors were regularized. This order was challenged by the State Government before a Division Bench which allowed the appeal of the State Government. The Division Bench rightly held that the learned Single Judge has not followed the principle of law as given by this Court in Secretary, State of Karnataka and Ors. v. Umadevi and Ors.1, as initial appointment must be done by the competent authority and there must be a sanctioned post on which the daily rated*

employee must be working. These two conditions were clearly missing in the case of the present appellant. The Division Bench of the High Court therefore has to our mind rightly allowed the appeal and set aside the order dated 27.06.2019.

4. In view of the law laid down by the Constitution Bench of this Court in Uma Devi (supra), the appellant had no case for regularization. There is no scope, hence, for our interference with the order of the Division Bench of the Madhya Pradesh High Court. Appeal is dismissed.

4.10. Hon'ble Apex Court in the case of ***Himansu Parida*** in para 13 of the said judgment has held as follows:

13.Considering the submissions made by the learned counsel for both the Parties and the averments made in the Writ Petition so also taking note of the aforesaid decisions of the Apex Court relied upon by the Opposite Party Nos.5 and 6, this Court is of the view that mere continuation of service by a temporary or ad hoc or daily-wage employee would not confer upon him/ her any right to be absorbed into service. Even temporary, ad hoc or daily-wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularization, if he is not working against a Location: ORISSA HIGH COURT, CUTTACK Date: 26-Jul-2024 15:06:39 sanctioned post. Here the posts are not sanctioned posts even though the requirement of such jobs/ posts are of perennial in nature.

5. To the submission made by the learned counsel appearing for the Opp.Party-Bank, learned counsel appearing for the Petitioners contended that taking into account the continuance of the Petitioners under the Opp-Party-Bank and the period of engagement now they have undergone, Petitioners in view of the recent decisions of the Apex Court in the case of ***Jaggo vs. Union of India***

& Ors., 2024 SCC OnLine SC 3826; Shripal & Anr. vs. Nagar Nigam, Ghaziabad, 2025 SCC OnLine SC 221, as well as ***Dharam Singh & Ors. vs. State of U.P. & Anr. (Civil Appeal No(s).8558 of 2018,*** *decision* of the Apex Court in the case of ***Bhola Nath Vs. State of Jharkhand and Others***, 2026 INSC 99 and so also ***Sukhendu Bhatacharjee & Ors. vs. the State of Assam & Ors.*** reported in 2026 INSC 523, have accrued a right of regularization.

5.1. View expressed by the Hon'ble Apex Court in the case of ***Jaggo*** in Para-22 to 25 and 27 reads as follows:-

> *"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.*
>
> *23. The International Labour Organization (ILO), of which India is a founding member, has consistently advocated for employment stability and the fair treatment of workers. The ILO's Multinational Enterprises Declaration6 encourages*

companies to provide stable employment and to observe obligations concerning employment stability and social security. It emphasizes that enterprises should assume a leading role in promoting employment security, particularly in contexts where job discontinuation could exacerbate long-term unemployment.

24. The landmark judgement of the United State in the case of Vizcaino v. Microsoft Corporation7 serves as a pertinent example from the private sector, illustrating the consequences of misclassifying employees to circumvent providing benefits. In this case, Microsoft classified certain workers as independent contractors, thereby denying them employee benefits. The U.S. Court of Appeals for the Ninth Circuit determined that these workers were, in fact, common-law employees and were entitled to the same benefits as regular employees. The Court noted that large Corporations have increasingly adopted the practice of hiring temporary employees or independent contractors as a means of avoiding payment of employee benefits, thereby increasing their profits. This judgment underscores the principle that the nature of the work performed, rather than the label assigned to the worker, should determine employment status and the corresponding rights and benefits. It highlights the judiciary's role in rectifying such misclassifications and ensuring that workers receive fair treatment.

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 labeled 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.*
>
> *xxxx xxxx xxxx xxxxx*

27. In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. 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. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country."

5.2. Hon'ble Apex Court in the case of ***Shripal*** in Para-14, 15, 17 & 18(IV) of the said judgment has held as follows:-

> *"14. ..... More importantly, Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment.*
>
> *15. ..... Indian labour law strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature.*
>
> *xxx xxx xxx xxx*
>
> *17. Indeed, bureaucratic limitations cannot trump the legitimate rights of workmen who have served continuously in de facto regular roles for an extended period.*
>
> *18.(IV) The Respondent Employer is directed to initiate a fair and transparent process for regularizing the Appellant Workmen within six months from the date of reinstatement, duly considering the fact that they have performed perennial municipal duties akin to permanent posts. In assessing regularization, the Employer shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Appellant Workmen or to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the Respondent Employer shall expedite all necessary administrative processes to ensure these longtime employees are not indefinitely retained on daily wages contrary to statutory and equitable norms."*

5.3. Placing reliance on the decision in the case of ***Jaggo and Shripal***, Hon'ble Apex Court in the case of ***Dharam Singh,*** in Paragraph-13, 14, 15 & 17, 18, 19 & 20 has held as follows:

"13. *As we have observed in both* ***Jaggo (Supra) and Shripal (Supra)****, outsourcing cannot become a convenient shield to perpetuate precariousness and to sidestep fair engagement practices where the work is inherently perennial. The Commission's further contention that the appellants are not "full-time" employees but continue only by virtue of interim orders also does not advance their case. That interim protection was granted precisely because of the long history of engagement and the pendency of the challenge to the State's refusals. It neither creates rights that did not exist nor erases entitlements that may arise upon a proper adjudication of the legality of those refusals.*

14*. The learned Single Judge of the High Court also declined relief on the footing that the petitioners had not specifically assailed the subsequent decision dated 25.11.2003. However, that view overlooks that the writ petition squarely challenged the 11.11.1999 refusal as the High Court itself directed a fresh decision during pendency, and the later rejection was placed on record by the respondents. In such circumstances, we believe that the High Court was obliged to examine the legality of the State's stance in refusing sanction, whether in 1999 or upon reconsideration in 2003, rather than dispose of the matter on a mere technicality. The Division Bench of the High Court compounded the error by affirming the dismissal without engaging with the principal challenge or the intervening material. The approach of both the Courts, in reducing the dispute to a mechanical enquiry about "rules" and "vacancy" while ignoring the core question of arbitrariness in the State's refusal to sanction posts despite perennial need and long service, cannot be sustained.*

15. *Therefore, in view of the foregoing observations, the impugned order of the High Court cannot be sustained. The State's refusals dated 11.11.1999 and 25.11.2003,in so far as they concern the Commission's proposals for sanction/creation of Class-III/Class-IV posts to address perennial ministerial/attendant work, are held unsustainable and stand quashed.*

xxx xxx xxx

17. *Before concluding, we think it necessary to recall that the State (here referring to both the Union and the State governments) is not a mere market participant but a constitutional employer. It cannot balance budgets on the*

backs of those who perform the most basic and recurring public functions. Where work recurs day after day and year after year, the establishment must reflect that reality in its sanctioned strength and engagement practices. The long-term extraction of regular labour under temporary labels corrodes confidence in public administration and offends the promise of equal protection. Financial stringency certainly has a place in public policy, but it is not a talisman that overrides fairness, reason and the duty to organise work on lawful lines.

18. *Moreover, it must necessarily be noted that "ad-hocism" thrives where administration is opaque. The State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious engagement over sanctioned posts where the work is perennial. If "constraint" is invoked, the record should show what alternatives were considered, why similarly placed workers were treated differently, and how the chosen course aligns with Articles 14, 16 and 21 of the Constitution of India. Sensitivity to the human consequences of prolonged insecurity is not sentimentality. It is an institutional discipline that should inform every decision affecting those who keep public offices running.*

19. *Having regard to the long, undisputed service of the appellants, the admitted perennial nature of their duties, and the material indicating vacancies and comparator regularisations, we issue the following directions:*

i. Regularization and creation of Supernumerary posts: All appellants shall stand regularized with effect from 24.04.2002, the date on which the High Court directed a fresh recommendation by the Commission and a fresh decision by the State on sanctioning posts for the appellants. For this purpose, the State and the successor establishment (U.P. Education Services Selection Commission) shall create supernumerary posts in the corresponding cadres, Class-III (Driver or equivalent) and Class-IV (Peon/Attendant/Guard or equivalent) without any caveats or preconditions. On regularization, each appellant shall be placed at not less than the minimum of the regular pay-scale for the post, with protection of last-drawn wages if higher and the appellants shall be entitled to the subsequent increments in the pay scale as per the pay grade. For seniority and promotion, service shall count from the date of regularization as given above.

ii. Financial consequences and arrears: Each appellant shall be paid as arrears the full difference between (a) the pay and admissible allowances at the minimum of the regular pay-level for the post from time to time, and (b) the amounts actually paid, for the period from 24.04.2002 until the date of regularization /retirement/death, as the case may be. Amounts already paid under previous interim directions shall be so adjusted. The net arrears shall be released within three months and if in default, the unpaid amount shall carry compound interest at 6% per annum from the date of default until payment.

iii. Retired appellants: Any appellant who has already retired shall be granted regularization with effect from 24.04.2002 until the date of superannuation for pay fixation, arrears under clause (ii), and recalculation of pension, gratuity and other terminal dues. The revised pension and terminal dues shall be paid within three months of this Judgment.

iv. Deceased appellants: In the case of Appellant No. 5 and any other appellant who has died during pendency, his/her legal representatives on record shall be paid the arrears under clause (ii) up to the date of death, together with all terminal/retiral dues recalculated consistently with clause (i), within three months of this Judgement.

v. Compliance affidavit: The Principal Secretary, Higher Education Department, Government of Uttar Pradesh, or the Secretary of the U.P. Education Services Selection Commission or the prevalent competent authority, shall file an affidavit of compliance before this Court within four months of this Judgement.

20. *We have framed these directions comprehensively because, case after case, orders of this Court in such matters have been met with fresh technicalities, rolling "reconsiderations," and administrative drift which further prolongs the insecurity for those who have already laboured for years on daily wages. Therefore, we have learned that Justice in such cases cannot rest on simpliciter directions, but it demands imposition of clear duties, fixed timelines, and verifiable compliance .As a constitutional employer, the State is held to a higher standard and therefore it must organise its perennial workers on a sanctioned footing, create a budget for lawful engagement, and implement judicial directions in letter and spirit. Delay to follow these obligations is not mere negligence but rather it is a conscious method of denial that erodes livelihoods and*

dignity for these workers. The operative scheme we have set here comprising of creation of supernumerary posts, full regularization, subsequent financial benefits, and a sworn affidavit of compliance, is therefore a pathway designed to convert rights into outcomes and to reaffirm that fairness in engagement and transparency in administration are not matters of grace, but obligations under Articles 14, 16 and 21 of the Constitution of India."

5.4. Hon'ble Apex Court in the case of ***Bhola Nath*** in Para-13.5 to 14 of the judgment has held as follows:-

"13.5. Such a decision must necessarily be a conscious and reasoned one. An employee who has satisfactorily discharged his duties over several years and has been granted repeated extensions cannot, overnight, be treated as surplus or undesirable. We are unable to accept the justification advanced by the respondents as the obligation of the State, as a model employer, extends to fair treatment of its employees irrespective of whether their engagement is contractual or regular.

*13.6. This Court has, on several occasions, deprecated the practice adopted by States of engaging employees under the nominal labels of "part-time", "contractual" or "temporary" in perpetuity and thereby exploiting them by not regularizing their positions. In **Jaggo v. Union of India**, this Court underscored that government departments must lead by example in ensuring fair and stable employment, and evolved the test of examining whether the duties performed by such temporary employees are integral to the day-to-day functioning of the organization.*

*13.7. In **Shripal v. Nagar Nigam**, and **Vinod Kumar v. Union of India**, this Court cautioned against a mechanical and blind reliance on **Umadevi** (supra) to deny regularization to temporary employees in the absence of statutory rules. It was held that **Umadevi** (supra) cannot be employed as a shield to legitimise exploitative engagements continued for years without undertaking regular recruitment. The Court further clarified that Umadevi itself draws a distinction between appointments that are "illegal" and those that are merely "irregular", the latter being amenable to regularization upon fulfilment of the prescribed conditions.*

*13.8. In **Dharam Singh v. State of U.P.**, this Court strongly deprecated the culture of "ad-hocism" adopted by States in*

their capacity as employers. The Court criticised the practice of outsourcing or informalizing recruitment as a means to evade regular employment obligations, observing that such measures perpetuate precarious working conditions while circumventing fair and lawful engagement practices.

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 them of 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."

5.5. Hon'ble Apex Court in the case of ***Sukhendu Bhattacharjee*** in Para-73 to 79 of the said judgment has held as follows:-

73. As regards the contention of Shri Gupta that after the decision in Umadevi (supra) no regularization can be effected in respect of employees who were not appointed against duly sanctioned posts, we are unable to accept such a sweeping proposition in the facts of the present case. The submission proceeds on the premise that Umadevi (supra) lays down an absolute and inflexible embargo against all forms of regularization irrespective of the surrounding circumstances. Such an interpretation, in our considered view, does not reflect the true scope and ratio of the decision.

74. This Court in Jaggo (supra), deprecated the tendency of the State to take mechanical shelter under Umadevi (supra) to deny relief to employees who had been performing work of a permanent and essential nature for long years. This Court observed as follows: -

> *"12. Despite being labelled as "part-time workers," the appellants performed these essential tasks on a daily and continuous basis over extensive periods, ranging from over a decade to nearly two decades. Their engagement*

was not sporadic or temporary in nature; instead, it was recurrent, regular, and akin to the responsibilities typically associated with sanctioned posts. Moreover, the respondents did not engage any other personnel for these tasks during the appellants' tenure, underscoring the indispensable nature of their work.

13. The claim by the respondents that these were not regular posts lacks merit, as the nature of the work performed by the appellants was perennial and fundamental to the functioning of the offices. The recurring nature of these duties necessitates their classification as regular posts, irrespective of how their initial engagements were labelled. It is also noteworthy that subsequent outsourcing of these same tasks to private agencies after the appellants' termination demonstrates the inherent need for these services. This act of outsourcing, which effectively replaced one set of workers with another, further underscores that the work in question was neither temporary nor occasional.

19. It is evident from the foregoing that the appellants' roles were not only essential but also indistinguishable from those of regular employees. Their sustained contributions over extended periods, coupled with absence of any adverse record, warrant equitable treatment and regularization of their services. Denial of this benefit, followed by their arbitrary termination, amounts to manifest injustice and must be rectified.

20. It is well established that the decision in Uma Devi (supra) does not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment sought to prevent backdoor entries and illegal appointments that circumvent constitutional requirements. However, where appointments were not illegal but possibly

"irregular," and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a scenario demanding fair regularization. In a recent judgment of this Court in Vinod Kumar v. Union of India, it was held that 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 theregular employee over a considerable period in the capacity of the regular employee.

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 labeled as "temporary" or "contractual," even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regularemployees are entitled to, despite performing identical tasks.*

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

• *Lack of Career Progression: Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.*

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

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

26. While the judgment in Uma Devi (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied

to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between "illegal" and "irregular" appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a onetime measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in Uma Devi (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.

27. In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold theprinciples of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country."

75. Recently, this Court in Bhola Nath (supra) while relying on the judgment of Jaggo (supra), Shripal (supra), and Dharam Singh (supra) observed as follows:-

"13.6. This Court has, on several occasions, deprecated the practice adopted by States of engaging employees under the nominal labels of "part-time", "contractual" or "temporary" in perpetuity and thereby exploiting them by not regularizing their positions. In Jaggo v. Union of India, this Court underscored that government departments must lead by example in ensuring fair and stable employment, and evolved the test of examining whether the duties performed by such temporary employees are integral to the day-to-day functioning of the organization.

13.7 In Shripal v. Nagar Nigam, and Vinod Kumar v. Union of India, this Court cautioned against a mechanical and blind reliance on Umadevi (supra) to deny regularization to temporary employees in the absence of statutory rules. It was held that Umadevi (supra) cannot be employed as a shield to legitimise exploitative engagements continued for years without undertaking regular recruitment. The Court further clarified that Umadevi itself draws adistinction between appointments that are "illegal" and those that are merely "irregular", the latter being amenable to regularization upon fulfilment of the prescribed conditions.

13.8. In Dharam Singh v. State of U.P., this Court strongly deprecated the culture of "adhocism" adopted by States in their capacity as employers. The Court criticised the practice of outsourcing or informalizing recruitment as a means to evade regular employment obligations, observing that such measures perpetuate precarious working conditions while circumventing fair and lawful engagement practices.

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."

76. What emerges from the principles enunciated in the aforesaid decisions is that the State cannot rely upon the mere form of engagement to deny fair and equitable treatment to employees who have served it for long years. The consistent thread runningthrough these judgments is that Umadevi (supra) cannot be invoked as a blanket barrier to justify prolonged and continued engagements of a temporary or ad hoc nature, especially where the employees have been discharging essential and recurring functions of the State. The Court has repeatedly emphasised that the distinction between "illegal" and "irregular" appointments must be kept in view, that long and continuous service is a relevant consideration, and that the State, as a model employer, is under a constitutional obligation to act with fairness, consistency and reasonableness. The practice of retaining employees for decades under deceptively titled designations, while simultaneously extracting regular work integral to the administration, has been disapproved consistently.

77. Applying these principles to the present case, it is evident that engaging workers on muster rolls was a consistently employed policy of the State which continued for prolonged period of time. The appellants were not engaged for sporadic or seasonal purposes but were taken on muster rolls and have rendered continuous service for decades in departments performing regular governmentalfunctions. The State itself acknowledged the magnitude of the issue and framed a Cabinet policy to regularize similarly situated workers, acting upon it in respect of nearly 30,000 employees. In such circumstances, to deny consideration to the fraction of remaining eligible workers including the appellants, by taking shelter under a rigid reading of Umadevi (supra) would defeat the very principles of fairness and non-arbitrariness that this Court has consistently upheld.

78. In the aforesaid backdrop, we are unable to accept the contention of the State that the appellants cannot be granted regularization on the ground that they were not initially appointed against duly sanctioned posts. The State, having

engaged the appellants prior to 1st April, 1993, utilised their services continuously for decades, and having itself framed and implemented a Cabinet policy regularizing nearly 30,000 similarly situated workers, cannot now exclude the appellants by taking shelter behind a rigid or technical reading of Umadevi (supra). In absence of any cogent distinction or reasoned decision justifying such exclusion, the action of the State is manifestlyarbitrary. It is inconsistent with its obligation to function as a model employer and does not withstand scrutiny under Article 14 of the Constitution.

79. In view of the discussion made hereinabove, the impugned judgment dated 8th June, 2017 passed by the Division Bench cannot be sustained and is set aside and the judgment of the learned Single Judge dated 20th December, 2013 is affirmed. Consequently, we pass the following directions:-

I. The appellants shall be treated as regularised in service in terms of the Cabinet decision dated 22nd July, 2005 and from the date on which similarly placed 30,000 employees were given benefit of the said Cabinet decision.

II. The State of Assam shall identify and verify the eligible appellants and, where necessary, create supernumerary posts to facilitate their regularization.

III. Upon regularization, the appellants shall be entitled to all consequential benefits, including fixation of pay in the regular scale, continuity of service, and all applicable pensionary and postretiral benefits in the same terms, as wereextended to similarly situated 30,000 employees.

IV. In case of retired appellants, they shall be granted notional regularization with consequential monetary benefits and arrears from the relevant date until their superannuation for the purpose of recalculating pension, gratuity, and terminal dues.

V. In case of deceased appellants, arrears and other benefits shall be released to their legal heirs in accordance with law.

VI. The entire exercise, including the calculation and payment of all financial arrears, shall be completed within a period of one year from the date of this judgment.

VII. We make it clear that the benefit of the above directions shall only be applicable to the appellants who were working in the departments of the State before the cut-off date prescribed in Cabinet decision dated 22nd July, 2005 i.e. before 1st April, 1993."

6. Having heard learned counsel appearing for the parties and considering the submission made, it is found that all the Petitioners were engaged in different branches of the Opp. Party-Bank at different point of time in different capacity. It is also found that with regard to engagement of such temporary employees such as Sweepers and Messengers in different Regional Rural Banks, pursuant to the decision of the Hon'ble Apex Court and with constitution of National Industrial Tribunal, the Tribunal passed an award on 30.04.1990 by directing that such temporary/part-time Sweeper-cum-Messengers are required to be regularised from the date of their initial continuance.

6.1. By following the award so passed by the National Industrial Tribunal, similar claim of Sweepers and Messengers working under Chaitanya Godavari

Grameena Bank when was allowed by the High Court of Andhra Pradesh vide order dtd.27.12.2017 in W.P.(C) No.24779 of 2011 under Annexure-2, the same was also implemented. Similarly, following the order passed in W.P.(C) No.24779 of 2011, similar claim was also allowed by the High Court of Andhra Pradesh in a batch of Writ Petitions in W.P.(C) No.15284 of 2014 and such order passed by the High Court of Andhra Pradesh was not only upheld in Writ Appeal No.147 of 2021 and batch under Annexure-6, but also by the Apex Court with dismissal of the appeal vide order available under Annexure-7.

6.2. It is found that relying on the order passed by the High Court of Andhra Pradesh, when Petitioners raised a claim to get the benefit of regularisation and this Court directed for its consideration in W.P.(C) No.3325 of 2019, such claim of the Petitioners has been rejected vide the impugned common order dtd.27.05.2019 under Annexure-4 series on the ground that Petitioners since have been engaged without following due procedure of law and their claim is not covered as per the decision of

the Apex Court in the case of ***Uma Devi***, they are not entitled to get the benefit.

6.3. This Court taking into account the nature of the award passed by the Tribunal and the decision of the High Court of Karnataka as well as High Court of Andhra Pradesh, Chhatisgarh and Tripura so available under Annexure-2, Annexure-5 series to Annexure-10, is of the view that with regard to regularisation of the Petitioners, who are continuing as Sweepers and Messengers and in other works on temporary basis, Opp. Party-Bank is required to frame a Scheme. On framing of such a Scheme, the services of the Petitioners as against those posts and/or in any posts of similar nature be regularised in due course of time.

6.4. This Court directs the Opp. Party-Bank to complete the exercise with regard to framing of a Scheme so directed hereinabove, in the light of the Scheme framed by Andhra Pradesh Grameena Vikash Bank, within a period of 4(four) months from the date of receipt of this order. On such framing of the Scheme, services of the Petitioners be regularised in due course of time, however

with due regard to seniority. Consequentially, order dtd.27.05.2019 stand quashed.

7. All the Writ Petitions accordingly stand disposed of.

Photocopy of the order be placed in the connected cases.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 28th October, 2026/Sangita

Signature Not Verified
Digitally Signed
Signed by: SANGITA PATRA
Reason: authentication of order
Location: high court of orissa, cuttack
Date: 28-Oct-2026 16:02:33