



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14337 OF 2024

1. Deepak Prakash Ghole,
2. Amod Anand Chavan,
3. Vishal Prakash Chalekar,
4. Rupali Rahul Shitkal,
5. Pradnya Bhagwan Waghmare,
6. Prabhavati Vithal Kamble,
7. Vidya Sachin Chavan,
8. Vinod Shankar Bolade,
9. Lakhnan Balu Yenake,
10. Vikas Abaji Nikalje
11. Khushendra Avaghade,
12. Sneha Amit Ashtekar,
13. Sushma Madhukar Patil,
14. Neelam Raju Subedar,
15. Prashant Yeshwant Kamble,
16. Aparna Tanaji Nimbalkar

....Petitioners

V/S

1. Savitribai Phule Pune University, Pune,
2. The Registrar, Savitribai Phule Pune University,
3. The State of Maharashtra,
Ministry of Higher Education

....Respondents

Mr. S.C. Naidu with Ms. Divya Yajurvedi, Mr. Pradeep Kumar *for the Petitioners.*

Mr. R.S. Apte, Senior Advocate i/b Dr. Rajendra Anbhale *for Respondent Nos.1 and 2.*

Mr. S.L. Babee, AGP *for Respondent/State.*

CORAM : SANDEEP V. MARNE, J.

DATE : 11 JUNE 2026.

ORAL JUDGMENT:

1. This Petition is filed by the 16 temporary employees working in Savitribai Phule Pune University challenging the judgment and order dated 18 September 2024 passed by the Member, Industrial Court, Pune. Though the Complaint of the Petitioners is partly allowed and the Respondent-University is restrained from terminating services of Petitioners without following due process of law, Petitioners are still aggrieved by the order of the Industrial Court since it has rejected the prayer for grant of permanency and other consequential benefits.

2. Petitioners claim that they have been working with the Respondent-University for a considerable period of time. It appears that Petitioner Nos.1, 4, 5, 6, 7 and 8 have been working as Assistants, Petitioner No.3 is working as Driver, Petitioner Nos.2, 9 and 10 are working as Peons and Petitioner Nos.11 to 16 are working as Library Assistants with the Respondent-University. 15 out of 16 Petitioners (Petitioner Nos.1 to 15) are in services of the Respondent-University. It appears that services of Petitioner No.16 were discontinued on account of the fact that she was on maternity leave. The details of Petitioners' employment are as under:

Sr. Nos.	Name	Department	Designation	Date of joining	Number of years of service
1	Deepak Prakash Ghole	Education and Extension	Assistant	7th April, 2004 to 2008	4 years 4 months
		Physical Education	Office Assistant	5th Nov. 2008	15 years 11 months

2	Amod Anand Chavan	Department of Peon Physical Education	Peon	5th Nov. 2008	15 years 11 months
3	Vishal Prakash Chalekar	Communication Studies	Driver	10th May, 2010	14 years 5 months
4	Rupali Rahul Shitkal	Commerce	Assistant	1st July, 2013	11 years 3 months
5	Pradnya Bhagwan Waghmare (Kamble)	Commerce	Assistant	6th October, 2016	08 years
6	Prabhavati Vithal Kamble	Economics	Assistant	27th June, 2007	17 years 3 months
7	Vidya Sachin Chavan	Competitive Examination Center	Assistant	1st January, 2014	10 years 9 months
8	Vinod Shankar Bolade	Philosophy	Assistant	1st June, 2010	14 years 4 months
9	Lakhan Balu Yenake	Economics	Peon	2nd July, 2011	13 years 3 months
10	Vikas Abaji Nikalje	Philosophy	Peon	1st July, 2012	12 years 3 months
11	Khushendra Avaghade	Commerce	Technical Assistant (Library)	1st July, 2013	11 years 3 months
12	Sneha Amit Ashtekar	Lalit Kala Kendra (Gurukul)	Technical Assistant (Library)	7th April, 2014	10 years 6 months
13	Sushma Madhukar Patil	Economics	Technical Assistant (Library)	2nd July, 2012	12 years 3 months
14	Neelam Raju Subedar	Philosophy	Technical Assistant (Library)	23rd June, 2011	13 years 3 months
15	Prashant Yeshwant Kamble	Marathi	Technical Assistant (Library)	13th October, 2010	13 years 11 months
16	Aparna Nimbalkar	Competitive Examination Center	Technical Assistant (Library)	5th November, 2012	

3. It appears that the case of the Petitioners was taken up by the Management Council in meeting held on 19 July 2016 for conferment of

benefit of permanency. However, the Management Council did not confer the benefit of permanency on them on the ground *inter alia* that regular selection process was not implemented at the time of their initial engagement nor were they appointed on sanctioned vacant posts. Petitioners approached Industrial Court, Pune by filing Complaint (ULP) No.280 of 2019 claiming the benefit of permanency and other related prayers. However, by the impugned judgment and order dated 18 September 2024, the Industrial Court has rejected the prayer for permanency essentially on the ground that Petitioners are not appointed by the University as such but are utilized by different departments from time to time. Another reason cited by the Industrial Court for rejecting the benefit of permanency is non-conduct of regular selection at the time of initial engagements of the Petitioners. The Industrial Court has also held that Petitioners were engaged temporarily in absence of any regular sanctioned posts and without following the prescribed procedure of recruitment. The Industrial Court has held that there is no employer-employee relationship between Petitioners and the Respondent-University. This finding is recorded on account of the fact that the Industrial Court has held that services of the Petitioners are utilized by the Heads of Departments in exercise of their individual powers. However, the Industrial Court has restrained the University from terminating the services of the Petitioners without following due process of law. Aggrieved by the judgment and order dated 18 September 2024 passed by the Industrial Court, Petitioners have filed the present Petition.

4. I have heard Mr. Naidu, the learned counsel appearing for the Petitioners and Mr. Apte, the learned Senior Advocate appearing for the Respondent-University. I have considered the submissions canvassed by them. I have gone through the findings recorded by the Industrial Court in the impugned judgment and order. I have also perused the records of the case filed alongwith the Petition.

5. There is no dispute to the position that even after passing of the impugned judgment and order dated 18 September 2024, services of all the 15 Petitioners are continued by the Respondent-University. If the dates of initial engagement, as indicated in above quoted chart, are to be believed, it is seen that many of the Petitioners have rendered more than 20 years of services with the Respondent-University. No doubt, the appointments are irregular since proper selection procedure was not conducted at the time of their initial engagements. However, a situation like this is dealt with by the Constitution Bench in its judgment in **Secretary, State of Karnataka vs. Umadevi**¹ and in paragraph 53 of the judgment, the Constitution Bench directed conduct of an exercise for regularization of those who are irregularly appointed but have continued to work for more than 10 years of service.

6. It appears that the decision of the Industrial Court denying benefit of permanency is essentially influenced by the position that different Heads of Departments of the University have utilized services of the Petitioners. According to Mr. Apte, only Registrar of the University has the power to make appointments on the rolls of the University and

¹ (2006) 4 SCC 1

individual Heads of Departments have the power to make only temporary engagements through the funds available for their departments. On the other hand, it is the contention of Mr. Naidu that under provisions of the Maharashtra Public Universities Act, 2016, Heads of the Departments can exercise delegated powers of the Registrar as approved by the Vice Chancellor of the University. Be that as it may. It is not necessary to delve deeper into this aspect. Even though Petitioners may have rendered services in different departments, ultimately it appears to be an undisputed position that their services are utilized by the University for a considerable period of time.

7. As observed above, the cases of the Petitioners were taken up by the Management Council for conferment of benefit of permanency in meeting held on 19 July 2016. Based on the position as it prevailed in the year 2016, the Management Council thought it appropriate not to make Petitioners permanent. However, a decision was taken to sanction posts for a period of five years for the purpose of continuation of the Petitioners. Much water has flown after conduct of meeting of the Management Council dated 19 July 2016. After that meeting also, Petitioners have rendered 10 more years of services with the Respondent-University.

8. In my view, the cases of the Petitioners need to be reconsidered by the Respondent-University in the light of the changed scenario. This Court is not proposing to direct Respondent-University to create posts for absorption of the Petitioners. However, in the event there are vacant

sanctioned posts in the University for the purpose of accommodation of the Petitioners, the Respondent-University can absorb the Petitioners against such posts rather than filling them up through open advertisements. Mr. Naidu contends that there is no dispute about the eligibility of the Petitioners to hold the respective posts. Though Mr. Apte disputes this position, the Management Council has not recorded any finding about non-holding of requisite qualifications while considering the cases of the Petitioners for regularization. What essentially came in their way was absence of regularly sanctioned posts at the time of their initial engagements and non-conduct of proper selection process at that time. However, if the posts are now existing for the purpose of absorption of the Petitioners, I do not see any reason why Petitioners should be continued on temporary basis forever. In view of the limited injunction passed by the Industrial Court, and as per decision taken by the Management Council in meeting dated 19 July 2016, and particularly in view of need of the Respondent-University, services of Petitioners are likely to be utilized in future as well. In such circumstances, it is appropriate that the cases of the Petitioners are considered for regular absorption against available posts, if any.

9. The directions that I propose to pass are in consonance with the views expressed by the Apex Court in **Jaggo vs. Union of India and others²**, in which it is held in paragraphs 21 to 26 as under:

21. The High Court placed undue emphasis on the initial label of the appellants' engagements and the outsourcing decision taken after their dismissal. Courts must look beyond the surface labels and consider the realities of employment : continuous, long-term service, indispensable duties,

2 2024 SCC OnLine SC 3826

and absence of any *mala fide* or illegalities in their appointments. In that light, refusing regularization simply because their original terms did not explicitly state so, or because an outsourcing policy was belatedly introduced, would be contrary to principles of fairness and equity.

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 Declaration 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 judgment of the United State in the case of *Vizcaino v. Microsoft Corporation* 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.

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 one-time 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.

10. In **Vinod Kumar and others vs. Union of India and others**³ the Hon'ble Apex Court has held in paragraphs 5 to 9 as under:

5. Having heard the arguments of both the sides, this Court believes that the essence of employment and the rights thereof cannot be merely determined by the initial terms of appointment when the actual course of employment has evolved significantly over time. The continuous service of the appellants in the capacities of regular employees, performing duties indistinguishable from those in permanent posts, and their selection through a process that mirrors that of regular recruitment, constitute a substantive departure from the temporary and scheme-specific nature of their initial engagement. Moreover, the appellants' promotion process was conducted and overseen by a Departmental Promotional Committee and their sustained service for more than 25 years without any indication of the temporary nature of their roles being reaffirmed or the duration of such temporary engagement being specified, merits a reconsideration of their employment status.

6. The application of the judgment in *Umadevi* (3) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over a considerable period through continuous service. Their promotion was based on a specific notification for vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in *Umadevi* (3) .

7. The judgment in *Umadevi* (3) also distinguished between "irregular" and "illegal" appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case. Para 53 of *Umadevi* (3) case is reproduced hereunder : (SCC p. 42)

"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V. Narayanappa* [1966 SCC OnLine SC 23] , *R.N. Nanjundappa* [(1972) 1 SCC 409] and *B.N. Nagarajan* [(1979) 4 SCC 507] and referred to in para

3 (2024) 9 SCC 327

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.”

8. In light of the reasons recorded above, this Court finds merit in the appellants' arguments and holds that their service conditions, as evolved over time, warrant a reclassification from temporary to regular status. The failure to recognise the substantive nature of their roles and their continuous service akin to permanent employees runs counter to the principles of equity, fairness, and the intent behind employment regulations.

9. Accordingly, the appeals are allowed. The judgment [*Vinod Kumar v. Central Administrative Tribunal*, 2016 SCC OnLine All 4489] of the High Court is set aside, and the appellants are entitled to be considered for regularisation in their respective posts. The respondents are directed to complete the process of regularisation within 3 months from the date of service of this judgment.

11. In **Rajkaran Singh & Ors. vs. Union of India & Ors.**⁴ the Hon'ble Apex Court has held in paragraphs 31 to 34 as under:

31. As held in *Vinod Kumar*(supra), "the essence of employment and the rights thereof cannot be merely determined by the initial terms of appointment when the actual course of employment has evolved significantly over time."

32. This Court fully associates with this principle and finds it wholly applicable in the present case, especially in light of the administrative orders and Board

4 2024 INSC 621 (SLP (Civil) No.30976 of 2017, decided on 22 August 2024)

proceedings referred to supra that have consistently treated the appellants as equivalent to regular government employees. The mere classification of employees as 'temporary' or 'permanent' is not merely a matter of nomenclature but carries significant legal implications, particularly in terms of service benefits and protections.

33. In the present case, the totality of circumstances indicates that despite their formal classification as temporary employees, the appellants' employment bears substantial hallmarks of regular government service. The denial of pensionary benefits solely on the basis of their temporary status, without due consideration of these factors, appears to be an oversimplification of their employment relationship with the government. This approach runs the risk of creating a class of employees who, despite serving the government for decades in a manner indistinguishable from regular employees, are deprived of the benefits and protections typically accorded to government servants.

34. Thus, we are of the opinion that the denial of pensionary benefits to the appellants is not tenable or justifiable in the eyes of law as the same is arbitrary and violates the fundamental rights as guaranteed by Articles 14 and 16 of the Constitution of India. It is indeed relevant to note that the appellants' batch seems to be the last in their genre of SSD Fund temporary employees and thus, manifestly, the direction to extend the benefits of the 6th CPC and the RP Rules to the appellants shall not form a precedent so as to have a detrimental effect on the financial health of the SSD Fund.

12. I am sure, the Respondent-University would keep in mind the ratio of the above-quoted judgments while considering the cases of the Petitioners for absorption. In the event regular posts are not available for absorption of the Petitioners, the Respondent-University would be justified in rejecting the cases of the Petitioners for absorption. However, if posts are available, the long length of service rendered by the Petitioners needs to be borne in mind for considering their cases for conferment of benefit of permanency on them.

13. This Court would have been justified in remanding the Complaint to the Industrial Court for reconsideration of the issue of entitlement of

the Petitioners for grant of permanency. This is particularly because the manner in which the issue of permanency is decided by the Industrial Court, the same does not appeal to this Court. Industrial Court has misdirected itself in recording a finding of absence of employer-employee relationship. If there is absolutely no employer -employee relationship between Petitioners and the University, why University's Management Council has dealt with their cases and taken decisions qua them is incomprehensible. Therefore re-decision of Petitioners' complaint by the Industrial Court is one of the courses open for this Court to direct. However, the Complaint of the Petitioners remained pending for over five years before the Industrial Court. Also, by now, period of almost 10 long years has elapsed after the cases of the Petitioners were considered by the Management Council on 19 July 2016. Therefore, instead of remanding the Complaint for fresh decision, I deem it appropriate to issue a direction to the Respondent-University to reconsider their cases for conferment of benefit of permanency.

14. I accordingly proceed to pass the following order:

- i) Judgment and order dated 18 September 2024 passed by the Industrial Court, Pune, in Complaint (ULP) No.280 of 2019 is modified and it is directed as under:
 - a) Respondent-University shall reconsider the cases of the Petitioners for conferment of benefit of permanency in the event regular posts are available for their absorption.

- b) The decision relating to conferment of benefit of permanency on Petitioners shall be taken by the Respondent-University within a period of three months.
 - c) The decision taken by the Respondent-University shall be communicated to the Petitioners.
 - d) If the Petitioners are aggrieved by the decision of the Respondent- University, they would be at liberty to challenge the same.
 - e) In the event the benefit of permanency is conferred on the Petitioners, Respondent-University shall extend the consequential financial benefits arising out of such permanency to the Petitioners in an expeditious manner.
- (ii) All rights and contentions of parties on the issue of permanency are expressly kept open.
 - (iii) Till a decision is taken for conferment of benefit of permanency on the Petitioners and for a period of four weeks thereafter, the Respondent-University shall not terminate the services of the Petitioners.

15. With the above directions, the Writ Petition is **partly allowed and disposed of**.

(SANDEEP V. MARNE, J.)