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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Reserved on: 27.05.2025*  
*Date of Decision: 11.07.2025*

+ **W.P.(C) 8531/2022, CM APPL. 25675/2022, CM APPL. 60834/2024 & CM APPL. 25724/2025****NAMITA KHARE AND ANR.** .....Petitioners

Through: Mr. Colin Gonsalves, Sr. Adv.  
with Mr. Atul Kr. Shrivastav, Adv.

versus

**UNIVERSITY OF DELHI AND ORS.** .....Respondents

Through: Mr. Santosh Kumar,  
Mr. Adithya Ramani and Mr. Vaibhav  
Mishra, Advs. for R-1

Mr. Manoj Ranjan Sinha and Mr. Vishal  
Agrawal, Advs. for R-2

Mr. Mukul Singh, CGSC with Mr. Aryan  
Dhaka, Adv.

**CORAM:****HON'BLE MR. JUSTICE C.HARI SHANKAR****HON'BLE MR. JUSTICE AJAY DIGPAUL****J U D G M E N T**

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**AJAY DIGPAUL, J.**

1. The present writ petition has been instituted under Article 226 of the Constitution of India by two petitioners, namely, Ms. Namita Khare and Ms. Mehak Talwar, who have been serving as ad-hoc Assistant Professors in the Department of Germanic and Romance Studies, University of Delhi, for varying periods extending up to nine years. The petitioners impugn Notification Ref. No. Estab.



IV/047/2021/192 dated 12.11.2021, issued by the University of Delhi, laying down revised guidelines for screening and/or shortlisting of candidates for direct recruitment to the post of Assistant Professor in various departments.

2. The petitioners state that they have been appointed after due advertisement and selection through proper procedure, though on an ad-hoc basis, and their services have been renewed successively, with artificial breaks, over the years. Their appointments have been made in accordance with resolutions passed by the Executive Council of the University and through open advertisements, notified on the University website.

3. The petitioners possess the requisite academic qualifications for the post of Assistant Professor, including UGC NET, M.Phil., and ongoing Ph.D. research. Specifically:

- a. Ms. Namita Khare has been serving since July 2017 and holds an MA, M.Phil., German Teachers' Training, and Translation Diplomas, along with NET qualification. She is pursuing her Ph.D. at Jawaharlal Nehru University.
- b. Ms. Mehak Talwar has been serving since January 2017 and holds an MA in German, NET qualification, and is enrolled in Ph.D. at the University of Delhi.

4. On 20.09.2021, the University of Delhi issued an advertisement inviting applications for the post of Assistant Professor in various departments. Initially, the advertisement required a Ph.D. as



a mandatory qualification, in accordance with the UGC Regulations, 2018.

5. Subsequently, on 12.10.2021, the University Grants Commission<sup>1</sup> issued a public notice extending the date for mandatory possession of a Ph.D. from 01.07.2021 to 01.07.2023. In view of this, the University of Delhi issued a corrigendum dated 01.11.2021, clarifying that Ph.D. was no longer a mandatory qualification for applying to the said posts.

6. In consequence of the above relaxation, both the petitioners became eligible and submitted applications for the regular post of Assistant Professor in the German section of the Department of Germanic and Romance Studies, in accordance with the advertisement dated 20.09.2021, as modified by the corrigendum dated 01.11.2021.

7. On 12.11.2021, the impugned Notification was issued by the University, containing revised screening guidelines for shortlisting candidates. The revised guidelines imposed a minimum score of 65 marks for being considered for shortlisting, and further prescribed that a minimum of 30 candidates for the first vacancy and 10 for every additional vacancy shall be called for interview. Notably, this was a departure from the original guidelines annexed to the advertisement dated 20.09.2021, which had stipulated a 75-mark threshold, with a provision for progressive lowering of marks to ensure sufficient number of candidates are called for interview.

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<sup>1</sup> hereinafter “UGC”



8. The petitioners state that in the Department of Germanic and Romance Studies, German Section, there were 4 unreserved posts advertised. However, despite the above guidelines, less than 60 candidates were shortlisted for interview, and the marks were not lowered progressively to meet the benchmark of minimum candidates as had been done in previous selection exercises.

9. The petitioners assert that they were not shortlisted for the interview despite being otherwise eligible, and despite fulfilling the minimum academic criteria prescribed by the UGC. They claim that the revised guidelines were arbitrarily applied to exclude long-serving ad-hoc faculty members like themselves.

10. It is further stated that on the post of permanent Assistant Professor, no appointments have been made in the German Section of the department for a long time, and that in the absence of regular faculty, the petitioners have been discharging all duties, both academic and administrative, similar to those performed by regular Assistant Professors. These include teaching undergraduate and postgraduate courses, setting examination papers, invigilation and evaluation, committee work, curriculum framing, and organizing academic events.

11. The petitioners contend that the impugned screening guidelines fail to account for the academic contributions made in the form of book chapters, translations, and discipline-specific activities, which have traditionally been awarded weightage in previous



recruitment cycles. Further, they submit that the weightage for Ph.D. was not revised downward even after the UGC circular relaxed the mandatory requirement, and conversely, teaching experience, which is critical in the case of ad-hoc teachers, was accorded minimal marks.

**12.** The petitioners have not challenged any statutory regulation with respect to the appointment process in the present petition. However, they are merely seeking that their appointments as ad-hoc Assistant Professors be regularised as regular/permanent appointments. However, the core grievance is that the only opportunity available to them for securing permanent appointment, which is by participating in the regular recruitment process, has been arbitrarily foreclosed through a revision in screening criteria, which departs from past practices and results in exclusion despite eligibility and years of service.

**13.** The petitioners were informed of their non-shortlisting for the interview on 11.05.2022. The present writ petition challenges the screening guidelines dated 12.11.2021 and seeks to assail the denial of shortlisting as arbitrary, *mala fide*, and in violation of their rights under Articles 14 and 16 of the Constitution of India.

**14.** Aggrieved from this, the petitioners have filed the present petition, wherein the following reliefs are sought:

“a. For an order quashing and setting aside the impugned notification regarding “Guidelines for Screening and or Shortlisting of Candidates through Direct Recruitment” dated 12.11.21 at Annexure P-1 at page 71 – 77 hereto and restoring paragraph II (3) of the Guidelines for Screening/Shortlisting of



Candidates for Appointment to the Post of Assistant Professors in the University” at Annexure P-8 page 96 – 98.

b. For an order, directing Respondent No.1 to include the Petitioners in the shortlist for appearing before the Selection Committee.

c. For an order, directing Respondent No.1 2 and 3 to regularize the present petitioners as permanent Assistant Professors.

d. For an order, directing Respondent No. 1, 2 and 3 to modify Table 1 Serial No. 7 of the Guidelines for Screening/Shortlisting of Candidates for Appointment to the Post of Assistant Professors in the University dated 12.11.21 to the limited extent of replacing the 10 marks stated therein with 20 marks and for a direction to Respondent No.1 to increase Marks for teaching experience from 10 to 20 as per Record of Discussion between MHRD, UGC and the University dated 5.12.2019.

e. For an order directing Respondent No.1, 2 and 3 to modify Table 1 Serial No. 4 of the Guidelines for Screening/Shortlisting of Candidates for Appointment to the Post of Assistant Professors in the University dated 12.11.21.

f. For an order directing Respondent No.1 to decrease marks for Ph.D. from 30 to 20 as per the Record of Discussion between MHRD, UGC and the University dated 5.12.2019 (at Annexure P-9 hereto). F1. For an order declaring the allocation of 30 marks for Ph.D. in Table 1 at page 72, the allocation of marks for teaching experience at page 73, the non-allocation of marks for publications, the provision for a minimum of 65 marks for being called for the interview, as arbitrary and unconstitutional. F2. For an order declaring clause 5 at page 76 arbitrary and unjust since it provides for 100% marks for the interview and 0% for the marks awarded during screening of applications and on merit, contrary to judgments of the Supreme Court.

g. For an order declaring the allocation of 30 marks for Ph.D. in Table 1 at page 72, the allocation of marks for teaching experience at page 73, the non-allocation of marks for publications, the provision for a minimum of 65 marks for being called for the interview, as arbitrary and unconstitutional.

h. For an order declaring clause 5 of Section III at page 76, as arbitrary and unjust since it provides for 100% marks for the interview and 0% for the marks awarded during screening of applications and on merit, contrary to judgments of the Supreme Court.



- i. Pass an order directing R-1 to fully implement the Record of Discussion dated 5.12.2019 between the MHRD, UGC and the University of Delhi at Annexure P-9 page 99 to 101 hereto particularly in respect of shortlisting for interviews for permanent positions and other issues.
- j. Pass an order directing Respondent No.1 not to recruit any new Assistant Professors in the Department of Germanic and Romance Studies until the Petitioners are appointed as regular and permanent Assistant Professors in the department.
- k. For an order declaring that R-1 followed a deliberate and malafide policy of not regularizing the ad-hoc Assistant Professors for years with a view to deprive them of wages, status and benefits of the regular Assistant Professors and to keep them in a permanent state of insecurity.
- l. For an order modifying the Guidelines for Screening/Shortlisting of Candidates for Appointment to the Post of Assistant Professors in the University dated 20.9.21 by increasing the marks for research, publications etc. from 10 to 20 marks and directing R-1 and UGC (R-2) to provide for additional marks in the screening criteria for articles, book publications and other publications as set out in paragraph 11(V) of this Petition.
- m. For an order directing R-1 for calling a minimum of 30 candidates for the first vacancy and 10 candidates for every additional vacancy for interview in order of their ranks in the list prepared by the Screening Committee in accordance with clause III(2) of the Guidelines for Screening and or Shortlisting of Candidates through Direct Recruitment” at Annexure P-8 page 96 – 98.
- n. For an order declaring Table 3-A of UGC Regulation on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2018 as unconstitutional and void.
- o. Pass such other or further orders as this Hon’ble Court may deem fit and proper to pass in the facts and circumstances of the present case.”

**15.** We find it pertinent to note that while the petitioners have argued for regularisation of their services as ad-hoc Assistant



Professors and have raised certain contentions regarding the University's recruitment practices, including the guidelines dated 12.11.2021, no specific challenge was pressed during the arguments against the UGC Regulations, 2018 or the process of regular appointment undertaken pursuant to them. Thus, the primary grievance is confined to the non-consideration of the petitioners for regularisation and their exclusion from the interview shortlist despite longstanding ad-hoc service and fulfilment of eligibility criteria. This Court, by its order dated 05.07.2022, had noted:

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1. Let counter affidavit, if any, be filed within four weeks. Rejoinder within one week thereafter.
2. Learned counsel for respondent No.1 submits that though shortlisting process has been undertaken however, no interview has been scheduled for appointment on regular basis and the same is not likely to be scheduled shortly.
3. In view thereof, list for final disposal on 26.08.2022.
4. In case any date of interview is scheduled, petitioners are given liberty to approach this Court for interim relief.
5. Learned counsel for the University Grants Commission (UGC) submits that though a statement was made before learned single Judge by the petitioners that they are impugning the UGC Regulations, however, there is no challenge to the UGC Regulations.
6. Parties shall file brief note of submissions before the next date of hearing."

(Emphasis supplied)

**16.** In light of the above, we confine our adjudication solely to the issues that were urged during arguments, particularly the petitioners' prayer for regularisation and the challenge to their exclusion from the interview shortlist under the impugned screening guidelines dated 12.11.2021. All other broader or collateral pleas relating to the validity





of the UGC Regulations or the general policy of direct recruitment shall remain unexamined and are expressly kept outside the scope of this judgment.

***Submissions on behalf of petitioners***

**17.** We have heard Mr. Colin Gonsalves, learned Senior Counsel appearing for the petitioners, who submitted that the petitioners, despite fulfilling the eligibility criteria under the UGC Regulations, 2018, and having rendered continuous long-term ad-hoc service in the Department of Germanic and Romance Studies, have been unfairly and arbitrarily excluded from the selection process for permanent appointments due to the application of the revised screening guidelines dated 12.11.2021.

**18.** It was contended that the impugned guidelines are arbitrary, *mala fide*, and designed to exclude long-serving ad-hoc teachers such as the petitioners. In particular, learned Senior Counsel criticised the excessive allocation of 30 marks for possession of a Ph.D., while assigning a meagre 10 marks for teaching experience, with no marks allocated for research publications or academic contributions. This, it was argued, disproportionately favours recent Ph.D. holders while disregarding candidates with extensive teaching experience.

**19.** It was further submitted that the impugned guidelines failed to implement the recommendations recorded in the Record of Discussion dated 05.12.2019, held between the Ministry of Human Resource



Development<sup>2</sup>, the UGC, and the University of Delhi. The said document recommended increasing marks for teaching experience to 20 and reintroducing marks for research and publications, the elements which were part of the earlier screening scheme.

20. It was further argued that the screening cut-off of 65 marks was arbitrarily applied without invoking Clause III(3) of the screening guidelines dated 12.11.2021, which provides for progressive relaxation of the cut-off in cases where an insufficient number of candidates qualify for the interview. In the present case, despite the fact that only a limited number of candidates were shortlisted against four posts, this relaxation clause was not activated, thereby eliminating the petitioners from consideration. The relevant clauses of screening guidelines is reproduced below:

**“III. Shortlisting of candidates: Criteria and Process**

1. The Screening Committee will draw a list of all the candidates indicating the marks scored by them in descending order, i.e. starting from the candidate getting the highest marks towards the candidates getting the lower marks. The applicant securing less than 65 marks for University Departments and 50 marks for Colleges will not be included in the list of shortlisted candidates.”

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3. For appointment in the University Departments: A minimum of 30 candidates for the first vacancy and 10 candidates for every additional vacancy shall be called for the interview in order of their ranks in the list prepared by the Screening Committee on the basis of marks scored by the candidates for each category.”

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<sup>2</sup> hereinafter “MHRD”



21. Additionally, it was submitted that the absence of any regular recruitment in the German Section, and the continuous reliance on ad-hoc faculty, reflects a deliberate policy of keeping ad-hoc teachers in a state of professional limbo, denying them both fair opportunity and regular employment benefits.

22. It was further submitted that the petitioners had rendered full academic and administrative duties comparable to regular faculty, including teaching, curriculum development, research supervision, examination responsibilities, and organising academic events. Their performance, dedication, and student feedback were never in question. Yet, the impugned guidelines effectively erased their experience and service from consideration.

23. It was emphasised that the petitioners were not seeking a mandamus for direct appointment or bypassing the regular recruitment procedure. Rather, the grievance lies in being denied a fair opportunity to participate in the interview process, thus extinguishing any real prospect of regularisation.

24. Lastly, the petitioners placed reliance on the recent judgment of the Hon'ble Supreme Court in *Jaggo v. Union of India & Ors.*<sup>3</sup>, to contend that the principle laid down in *Secretary, State of Karnataka & Ors. v. Umadevi (3) & Ors.*<sup>4</sup> does not preclude the possibility of regularisation in cases where appointments, though not strictly compliant with procedural norms, are not illegal and where the

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<sup>3</sup> 2024 SCC OnLine SC 3826

<sup>4</sup> (2006) 4 SCC 1



employees have continuously discharged essential and sanctioned functions over an extended period. It was argued that the intent of *Umadevi* was to prohibit backdoor entries, not to penalise long-serving employees who have worked in sanctioned posts and performed duties equivalent to regular staff. It was submitted that, in *Jaggo*, the Hon'ble Supreme Court recognised that such prolonged, uninterrupted service, where ad-hoc appointees have been performing indispensable and ongoing functions of the institution, may over time require humane and fair regularisation measures. The petitioners argued that the University has similarly engaged them on successive ad-hoc appointments for several academic years, during which they discharged core teaching and administrative responsibilities. Denial of regularisation on the ground of procedural irregularities, they submitted, would amount to a selective and distorted application of *Umadevi*, contrary to its spirit and as clarified in *Jaggo*.

***Submissions on behalf of University of Delhi/Respondent no.1***

**25.** We have also heard Mr. Santosh Kumar, learned Counsel for Respondent no.1, who defended the impugned guidelines dated 12.11.2021 and opposed the petitioners' claim for inclusion in the interview shortlist or regularisation of their ad-hoc services.

**26.** It was submitted that the selection process for appointment to teaching positions in the University of Delhi is governed by the UGC Regulations, 2018, which mandate an open, competitive process through advertisement, shortlisting, and interview. The petitioners, having applied under the said advertisement, participated in the



process and were not found eligible for the interview, and therefore cannot now challenge the outcome of a process to which they voluntarily submitted.

27. It was emphatically argued that no vested right accrues in favour of ad-hoc teachers to seek regularisation or inclusion in the shortlist in deviation from the notified criteria. The shortlisting norms dated 12.11.2021 are in conformity with the UGC Regulations and were formulated after due deliberation by an Expert Committee and approved by the Executive Council of the University.

28. He relied on the judgment of the Hon'ble Supreme Court in *University of Delhi v. Delhi University Contract Employees Union*<sup>5</sup> to argue that long tenure of ad-hoc service by itself does not confer any claim to regularisation. It was submitted that the petitioners had been appointed for fixed tenures, with breaks in service, and had no legal right to be absorbed into permanent roles without undergoing the prescribed selection process.

29. It was further contended that the impugned guidelines rationally allocate marks across various academic qualifications and teaching experience. The allocation of 30 marks for a Ph.D. degree reflects the weightage accorded to academic research, while 10 marks for teaching experience ensures that merit and fresh research are not undermined by seniority alone. The guidelines were uniformly applied to all candidates and did not unfairly target the petitioners.

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<sup>5</sup> (2021) 16 SCC 71



**30.** On the issue of the Record of Discussion dated 05.12.2019, it was submitted that the said document was merely a record of suggestions exchanged among stakeholders and had no binding or statutory force. Moreover, the UGC did not formally adopt the said Record through amendment to its Regulations, and hence, no legal obligation arises from it.

**31.** It was further submitted that Clause III(3) of the 12.11.2021 guidelines, which allows for progressive relaxation of cut-off in cases of inadequate shortlisted candidates, was duly considered. In the present case, sufficient candidates met the 65-mark threshold, and therefore, no case for relaxation arose. The petitioners simply failed to score the minimum qualifying marks and were rightly excluded.

**32.** It was further emphasised that the petitioners were estopped from challenging the screening norms after having participated in the selection process without protest. It was contended that a candidate who willingly participates in a selection process cannot later turn around and assail its fairness merely because the outcome is unfavourable. It is further submitted that the petitioners had again participated in the fresh advertisements issued by Respondent no.1 for the said posts on 03.10.2024. However, the petitioners once again remained unsuccessful in the selection process. This conduct, it was urged, reinforces that the petitioners accepted the selection mechanism and were bound by its result.

**33.** It is further submitted that the judgment in *Jaggo (Supra)* must be read as confined to rare and extreme cases involving abuse of



power. It was argued that the petitioners in **Jaggo** had worked for over 30 years in temporary capacities as Safaiwali and Khallasi and were terminated without any show cause notice, without any regular appointments having been made, and these circumstances justify judicial interference. In contrast, the present petitioners have only served for about four years on an ad-hoc basis and have not suffered any arbitrary dismissal. Accordingly, the reliance placed by the petitioners on **Jaggo** was stated to be misplaced.

### ***Analysis***

**34.** The petitioners in the present case seek regularisation of their services as ad-hoc Assistant Professors in the Department of Germanic and Romance Studies at the University of Delhi. They have also sought quashing of the Screening Guidelines dated 12.11.2021 on the ground that the same arbitrarily excluded them from the shortlist despite having served the University for several years in an ad-hoc capacity. Respondent no.1, in turn, have opposed this claim, relying *inter alia* on the settled position in law that there is no vested right to regularisation and that appointments to public posts must strictly adhere to the constitutional scheme of equality and fair competition.

**35.** At the heart of this dispute lies the question whether ad-hoc appointments, such as those held by the petitioners, can be converted into permanent positions through judicial intervention, despite the existence of a formal recruitment process governed by statutory regulations such as the UGC Regulations, 2018.



**36.** The issue at hand is no longer *res integra*. In *Jaggo*, the Hon'ble Supreme Court held that the decision in *Umadevi (Supra)* cannot be stretched to deny regularisation to employees who have rendered long, continuous and essential service, where the initial appointment was not tainted by fraud or illegality. The Court emphasised that ad-hoc or temporary status cannot be used as a tool to deny dignity and job security to workers who discharge functions identical to regular staff over extended periods. The judgment recognised that sustained service in sanctioned or necessary posts, when coupled with absence of adverse service record, attracts constitutional protection against arbitrary termination and justifies regularisation on equitable grounds. We find it imperative to reproduce the following portion from *Jaggo*:

“**11.** The appellants, throughout their tenure, were engaged in performing essential duties that were indispensable to the day-to-day functioning of the offices of the Central Water Commission (CWC). Applicant Nos. 1, 2, and 3, as Safaiwalis, were responsible for maintaining hygiene, cleanliness, and a conducive working environment within the office premises. Their duties involved sweeping, dusting, and cleaning of floors, workstations, and common areas—a set of responsibilities that directly contributed to the basic operational functionality of the CWC. Applicant No. 5, in the role of a Khallasi (with additional functions akin to those of a Mali), was entrusted with critical maintenance tasks, including gardening, upkeep of outdoor premises, and ensuring orderly surroundings.

**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.





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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.

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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.

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.”



37. The decision in *Shripal & Anr. v. Nagar Nigam, Ghaziabad*<sup>6</sup>, further affirms the holding in *Jaggo*. In *Shripal*, the Hon'ble Supreme Court regularised the services of gardeners who had worked for decades, holding that their dismissal and replacement through outsourced contracts constituted an unfair labour practice. It rejected the argument that *Umadevi* applied to deny them relief, noting that the real mischief targeted in *Umadevi* was illegal and backdoor appointments, not situations where qualified individuals had served uninterruptedly in essential roles. The Court observed that it was impermissible for public employers to perpetuate temporary appointments while continuing to delay regular recruitment for sanctioned posts.

38. Furthermore, the Division Bench of this Court in *Deen Bandhu Garg & Ors. v. South Delhi Municipal Corporation & Ors.*<sup>7</sup> (pronounced by us), where the Court, after analysing *Jaggo* and other binding precedents, emphasised *inter alia* that courts must look beyond the formal nature of ad-hoc appointments and assess the reality of prolonged, unblemished service against sanctioned posts, especially where such appointments were made after public advertisements along with the requisite qualifications prescribed for the posts in question.

39. In the present case, the petitioners have been appointed after public advertisements, have taught continuously for more than a decade, and have performed every duty that regular Assistant

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<sup>6</sup> 2025 SCC OnLine SC 221

<sup>7</sup> 2025 SCC OnLine Del 2417



Professors perform. Their service has been uninterrupted, except for the breaks imposed by the University itself. There is no allegation of any illegality in their initial appointments. On the contrary, the University's conduct demonstrates that the petitioners have been treated as indispensable to the functioning of the German Department. As held in ***Deen Bandhu Garg***, such prolonged reliance by the employer evidences the existence of sanctioned posts in disguise. The petitioners were not engaged for a finite project or stop-gap arrangement, but have been entrusted with core instructional and administrative responsibilities within a permanent academic framework.

**40.** The defence of ***Umadevi***, as raised by the respondents, therefore stands refuted by the settled legal position. As this Court held in ***Deen Bandhu Garg***, continued reliance on ***Umadevi*** to justify the perpetuation of ad-hoc appointment arrangements undermines the constitutional mandate of equal treatment and non- arbitrariness. The petitioners' claim is not one of automatic absorption but of fair and non-arbitrary consideration for regularisation, backed by years of sustained contribution, institutional reliance, and constitutional equity. To deny such consideration would perpetuate the very mischief censured by the Hon'ble Supreme Court in ***Jaggo*** and ***Shripal***, and would result in manifest injustice.

**41.** In view of the above, the legal principles laid down in ***Jaggo***, reaffirmed in ***Shripal***, and adopted by this Court in ***Deen Bandhu Garg***, are squarely attracted to the present case. The petitioners' continued exclusion from the zone of regularisation, despite fulfilling



all eligibility conditions and having rendered long and meritorious service, is violative of Articles 14 and 16 and cannot be sustained.

**42.** Another pertinent dimension that emerges in the present case is the language employed in the advertisements issued by the Respondent no.1 for appointing the petitioners. Each advertisement stated that applications were invited “*for a period of four months from the date of joining or till the regular incumbent joins duty, whichever is earlier.*” This formulation is significant. It indicates, without ambiguity, that the ad-hoc appointments were made not against temporary positions, but against vacant sanctioned posts that awaited regular recruitment. This very construction was interpreted in ***Deen Bandhu Garg***, where this Court held that such phraseology is indicative of the posts being permanent in nature, and the ad-hoc appointment being merely an interim stop-gap arrangement. The Court in that case further held that if, despite such framing, no steps are taken to appoint a regular incumbent for an extended period, and the ad-hoc appointee’s tenure is simply extended from time to time, the employer cannot be permitted to deny the latter the benefits of regularisation.

**43.** In the present case, no regular recruitment was conducted for a long time, despite repeated extension of the petitioners’ tenure against these very posts. This reinforces the presumption that the Respondent no.1 was consciously using ad-hoc appointments as a substitute for regular employment, thereby circumventing its obligation to provide fair service conditions. Once it is established that the petitioners were appointed through an open, competitive process, against sanctioned



posts, and continued to discharge regular functions for years together, the temporary label attached to their appointment cannot be relied upon to defeat their legitimate claim for equitable treatment.

**44.** It must also be recalled that *Deen Bandhu Garg* unequivocally held that employees who have been serving continuously for years against sanctioned posts cannot be compelled to re-enter the selection process merely because their initial appointment was termed ‘ad-hoc’. In such cases, the sustained service and institutional dependence on their role transforms the nature of the engagement from a temporary stop-gap to a long-standing contractual relationship that merits parity in treatment with regular staff. This principle squarely applies to the present case, and fortifies the petitioners’ claim for relief.

**45.** Additionally, it is true that the petitioners participated in the regular recruitment process, including the selection cycle in 2021–2022, and again in 2024, and were unsuccessful on both occasions. However, this fact cannot be construed as a bar to their entitlement for regularisation. To accept the proposition that participation in a selection process forecloses the right to claim regularisation would amount to distinguishing or diluting the binding principles laid down by the Hon’ble Supreme Court in *Jaggo*. That is not open for us to decide while sitting in writ jurisdiction under Article 226. The right to be treated fairly under Articles 14 and 16 cannot be waived merely by responding to a recruitment advertisement.

**46.** In view of the foregoing discussion, we find that the petitioners are entitled to the relief of regularisation. Accordingly, it is not necessary for us to adjudicate upon the other issues raised in the writ



petition, including the validity of the revised screening guidelines dated 12.11.2021, the disproportionate weight accorded to qualifications *vis-à-vis* teaching experience, the alleged non-implementation of the Record of Discussion dated 05.12.2019, or the arbitrary application of the 65- mark shortlisting threshold without invoking Clause III(3). Once it is held that the petitioners' sustained service entitles them to regularisation as a matter of law and equity, these subsidiary issues become academic and need not be addressed in the present adjudication.

**47.** Petition allowed in the terms mentioned above.

**48.** All pending application(s), if any, stand disposed of.

**AJAY DIGPAUL, J.**

**C. HARI SHANKAR, J.**

**JULY 11, 2025/an**

[Click here to check corrigendum, if any](#)