



2025:DHC:604-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 1093/2025, CM APPL. 5379/2025 & CM APPL.
5380/2025

GOVT OF NCT OF DELHI THROUGH DEPARTMENT
OF TRAINING AND TECHNICAL EDUCATION AND
ORS

.....Petitioners

Through: Mr. Yeeshu Jain, ASC with
Ms. Jyoti Tyagi and Ms. Kanika
Tyagi, Advs.

versus

RUCHI

.....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

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29.01.2025

C. HARI SHANKAR, J.

1. We are, frankly, extremely disturbed that such a petition has even been filed before this Court.
2. The Central Administrative Tribunal¹ has, by order dated 14 May 2024, only directed the release of family pension and ex-gratia assistance to the widow of one Mr. Sachin Deep Singh who served the petitioners for eleven years on contractual basis as a Craft Instructor.

¹ "the Tribunal", hereinafter



3. The fact that he served the petitioners for eleven years is not in dispute. The Supreme Court has, in its recent decision, in *Jaggo v UOI*², critically commented on the practice of keeping persons on contract or *ad-hoc* or casual basis for years at a stretch, without regularising them, thereby leaving the fate of their careers hanging in the proverbial balance. We may reproduce the following paragraphs from the decision in *Jaggo*, which emphasise this point:

“15. Furthermore, the respondents' conduct in issuing tenders for outsourcing the same tasks during the pendency of judicial proceedings, despite a stay order from the Tribunal directing maintenance of status quo, reveals lack of bona fide intentions. Such actions not only contravened judicial directives but also underscored the respondents' unwillingness to acknowledge the appellants' rightful claims to regularization.

16. The appellants' consistent performance over their long tenures further solidifies their claim for regularization. At no point during their engagement did the respondents raise any issues regarding their competence or performance. On the contrary, their services were extended repeatedly over the years, and their remuneration, though minimal, was incrementally increased which was an implicit acknowledgment of their satisfactory performance. The respondents' belated plea of alleged unsatisfactory service appears to be an afterthought and lacks credibility.

17. As for the argument relating to educational qualifications, we find it untenable in the present context. The nature of duties the appellants performed cleaning, sweeping, dusting, and gardening—does not inherently mandate formal educational prerequisites. It would be unjust to rely on educational criteria that were never central to their engagement or the performance of their duties for decades. Moreover, the respondents themselves have, by their conduct, shown that such criteria were not strictly enforced in other cases of regularization. The appellants' long-standing satisfactory performance itself attests to their capability to discharge these functions, making rigid insistence on formal educational requirements an unreasonable hurdle.

² 2024 SCC OnLine SC 3826



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)*³ 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. UOI*⁴, it was held that procedural formalities cannot be used to deny regularization of service to an employee whose appointment was termed “temporary” but has performed the same duties as performed by the regular employee over a considerable period in the capacity of the regular employee. The relevant paras of this judgment have been reproduced below:

“6. The application of the judgment in Uma Devi (supra) 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 the case of Uma Devi (supra).

7. The judgment in the case Uma Devi (supra) also distinguished between “irregular” and “illegal” appointments underscoring the importance of considering

³ Secretary, State of Karnataka v. Uma Devi, (2006) 4 SCC 1

⁴ (2024) 1 SCR 1230



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...”

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, 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 Declaration⁵ 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*⁶ serves as a pertinent example from the private sector, illustrating the consequences of

⁵ International Labour Organization- Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy.

⁶ 97 F.3d 1187 (9th Cir. 1996)



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.

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.”



4. Despite the Tribunal having only directed grant of family pension and *ex-gratia* relief to the widow of the respondent and despite the fact that the husband of the respondent admittedly served the petitioners for eleven years, the petitioners seek to capitalise on the fact that they did not regularise the services of the respondent for the said period of eleven years as a ground to deny family pension and *ex-gratia* relief.

5. We have perused the writ petition. There is not a single rule or executive instruction cited in the writ petition, on the basis of which the entitlement of the respondent to family pension and *ex-gratia* relief can be refused. The Tribunal has chosen to rely on the judgment of the High Court of Punjab and Haryana in *Kelo Devi v State of Haryana*⁷ and has extracted, from the said judgment, the following paragraphs: -

“A Co-ordinate Bench of this Court while deciding the said writ petition, which also raised the same question of law as to whether an employee who has been selected after due advertisement, though on contract basis, whether his family members will be entitled for the benefit under 2006 Rules, in case the said employee dies while in service, held as under: -

"6. Per contra, learned State counsel would contend that the husband of the petitioner had been appointed as Driver on a contractual basis for a period of 89 days, initially on 21.6.2008, and it was such contractual appointment that continued upto the date of his death i.e. 5.9.2010. Stand of the State Government is that 2006 Rules are applicable only to regular employees and since the petitioner is the widow of a contractual employee, the benefit of *ex-gratia* financial assistance would not be admissible to her.

⁷ 2013 SCC OnLine P&H 2907



12. As per the relevant clause under the Family Pension Scheme, 1964 re-produced hereinabove, the benefits are admissible in the case of death while in service of a Government employee who has completed minimum period of one year of continuous service without any break. As per Note- 1 appended to para 4, sub clause (i), the term of one year continuous service is inclusive of permanent/ temporary service in a pensionable establishment. Still further, a rider has been imposed that such deceased Government employee immediately prior to his recruitment to the service or post was required to be examined by the appropriate Medical Authority and declared fit for Government service.

17. Even otherwise, the 2006 Rules have been promulgated with a laudable object i.e. to provide assistance to the family of the deceased Government servant who dies in harness. Such provisions are in the nature of a beneficial provision and are to be given a wider meaning while interpreting the same, rather than a restricted one which would negate the very object of such provisions. The observations of the Hon'ble Supreme Court in the case of ***Bombay Anand Bhavan Restaurant v. The Deputy Director, ESI Corporation and Anr.***⁸ would be most relevant in this behalf which are in the following terms:

"The Employees State Insurance Act is a social security legislation and the canons of interpreting a social legislation is different from the canons of interpretation of taxation law. The courts must not countenance any subterfuge which would defeat the provisions of social legislation and the courts must even, if necessary, strain the language of the Act in order to achieve the purpose which the legislature had in placing this legislation on the statute book. The Act,' therefore, must receive a liberal construction so as to promote its objects. This Court, in the case of ***ESI Corporation, Hyderabad v. Jayalakshmi Cotton and Oil Products***⁹ has observed that the ESI Act is a social security legislation and was enacted to ameliorate the various risks and contingencies which the employees face while working in an establishment or factory. It is thus intended to promote the general welfare of the workers and, as such, is to be liberally interpreted."

18. For the reasons recorded above, the memo dated 20.7.2011, Annexure P8, is set aside. The petitioner is held to be entitled for the grant of ex-gratia assistance under the 2006 Rules in terms of

⁸ (2009) 9 SCC 61

⁹ (1980) 2 AP LJ 98 (AP)



taking the service rendered by the late husband of the petitioner i.e. with effect from 26.6.2008 till 5.9.2010 to be temporary service'. Consequently, the petitioner shall be released the admissible financial assistance as per the 2006 Rules within a period of one month from the date of receipt of a certified copy of this order.”

6. Though Mr. Yeeshu Jain, learned Standing Counsel for the petitioners, sought to contend that the Tribunal erred in invoking a judgment which applied to an employee in the State of Punjab & Haryana, and they have been covered by different rules, we reiterate that no rule has been placed on record on the basis of which the respondent's entitlement to family pension could be disputed. Besides, the judgment of the High Court in the State of Punjab & Haryana proceeds on the general principle that, while dealing with beneficial social welfare legislations such as legislations dealing with compassionate appointment, grant of family pension to widows of the persons who die in harness, etc, the Court has to adopt an expansive approach. The High Court of Punjab & Haryana has also relied on the judgment of the Supreme Court in ***Bombay Anand Bhavan Restaurant***, in which the Supreme Court has gone to the extent of holding that, if in order to give full play to the beneficial wings of a social welfare legislation, it is necessary to strain the language of the statute, the Court must not demur from doing so.

7. Viewed in any which way, we are of the view that the present case is not one which would justify our interference, in exercise of our *certiorari* jurisdiction under Article 226 of the Constitution of India.

8. We accordingly dismiss this writ petition in *limine*.



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9. The petitioners are directed to comply with the judgment of the Tribunal positively within a period of three weeks from today, failing which the amounts payable to the respondent would carry interest @12% p.a. till the date of payment.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

JANUARY 29, 2025/sk

Click here to check corrigendum, if any