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

Date of decision: 23.09.2025

\+ **W.P.(C) 4292/2016**

SARITA KHATRI & ORS. .....Petitioners

Through: Mr. A.K. Behra, Sr. Adv. with Mr. Amarendra P.Singh, Adv.

versus

GOVT. OF NCTD & ORS. .....Respondents

Through: Mrs. Avnish Ahlawat, SC, GNCTD Services with Mr. Nitesh Kumar Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioners, challenging the Order dated 18.05.2015 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in C.P. No. 416/2014 in O.A. No.1360/2012, titled ***Sarita Khatri & Ors v. Govt. Of NCTD & Ors.,*** as well as the Order dated 15.03.2016 passed by the learned Tribunal in O.A. No. 949/2016, titled ***Sarita Khatri & Ors v. Govt. Of NCTD & Ors.,*** whereby the O.A filed by petitioners herein was dismissed.

2. To give a brief background of the facts from which the present petition arises, the petitioners had filed O.A. No.1360/2012, contending therein that a total of 88 posts of Supervisor (Female) in

the Social Welfare Department of the respondents had been advertised on 17.08.2007. The petitioners, after undergoing a recruitment process consisting of an interview, had been appointed to the said post by the respondents. Though the initial appointment of the petitioners was for a period of six months, they continued to serve with the department uninterruptedly thereafter. By placing reliance on the Office Memorandum dated 23.05.2011, it was further contended that, having rendered more than three years of service, they were entitled to conversion from temporary to permanent posts.

3. The learned Tribunal, upon considering the aforesaid plea of the petitioners, *vide* its Order dated 13.02.2014, allowed the O.A. with the following directions:

> *"11. Taking the entire conspectus into account, it is directed that:*
> *i) the respondents shall take action for conversion of the posts of Supervisor (Female) presently held by the applicants, into permanent posts in accordance with the policy already laid down by the Government in this regard.*
> *ii) The applicants shall be entitled to maternity leave with pay in accordance with the rules as applicable to the regular Supervisors (Female).*
> *iii) As already admitted by the respondents the emoluments of the applicants shall be suitably raised, taking into account the package offered to the outsourced persons doing the same job and other similarly placed persons in the department.*
> *iv) The respondents shall comply with these directions within a period of 03 months from the date of receipt of a copy of this Order.*
> *v) The OA is allowed in the aforesaid terms. No costs."*

4. We are herein concerned only with the direction contained in para 11 (i) mentioned above.

5. At this stage itself, we may note that the above Order of the learned Tribunal was not challenged by the respondents and, therefore, attained finality.

6. In terms of the said Order, the respondents were obliged to take steps for converting the posts of Supervisor (Female), held by the petitioners, into permanent posts, in accordance with the policy laid down by the Government and contained in the Office Memorandum dated 23.05.2011.

7. Alleging non-compliance with the aforesaid directions, the petitioners filed a Contempt Petition, being C.P. No. 416 of 2014, which was disposed of by the learned Tribunal by its Impugned Order dated 18.05.2015, with the following direction:

> "3. *In the wake, the CP is disposed of with direction to the respondents to ensure that the direction contained in para 11 (ii) of the judgment dated 13.02.2014 is carried out in letter and spirit. Needful should be done within 3 weeks, it goes, without saying that that if the applicants are aggrieved by the decision of the respondents of not converting the post of Supervisor (Female) into permanent, it would be open to them to work out their right in accordance with rules and law."*

8. It is the submission of the learned senior counsel appearing for the petitioners that the learned Tribunal, while exercising its powers under contempt jurisdiction, could not have modified the directions issued by it in its Order dated 13.02.2014 passed in O.A. No.

1360/2012.

9. We are in full agreement with the submission of the learned senior counsel for the petitioners. The Order dated 13.02.2014 was unambiguous in its directions to the respondents, *inter alia,* to convert the temporary posts of Supervisor (Female), on which the petitioners had been appointed, into permanent posts in terms of the OM dated 23.05.2011. As noted hereinabove, the said Order attained finality and was not challenged by the respondents. There was, therefore, no occasion for the respondents to revisit the said decision, as was permitted by the Impugned Order. The respondents were under an obligation to convert the posts of Supervisor (Female) into permanent posts and to place the petitioners therein.

10. However, this was not the end of the petitioners' difficulties. Perhaps feeling helpless with the above Order and acting on legal advice, which, we may state here, may not have been correct, the petitioners filed another O.A., being O.A. No. 63/2016. The same was disposed of by the learned Tribunal *vide* its Order dated 11.01.2016, in our view, rightly holding that the relief claimed by the petitioners already stood adjudicated by the Order dated 13.02.2014.

11. As the petitioners were still without any relief, they filed another O.A., being O.A. No. 949/2016, which was again dismissed by the learned Tribunal *vide* Impugned Order dated 15.03.2016. The Tribunal once more observed that a second O.A. seeking the same relief was not maintainable, particularly when the petitioners were only seeking implementation of the earlier Order dated 13.02.2014.

12. While we do not find any fault with the Impugned Order dated

15.03.2016, the fact remains that the petitioners, having succeeded in the first O.A., that is, O.A. No. 1360/2012, and the learned Tribunal having issued the above-quoted directions in its Order dated 13.02.2014, which admittedly remain unimplemented, are, till today, left without any remedy or relief.

13. Keeping in view the above, we have also considered, on merits, the plea of the petitioners for their posts to be converted into permanent posts.

14. The case of the respondents is that the petitioners were appointed as Supervisors (Female) under the Integrated Child Development Services (ICDS) Scheme, albeit on a temporary basis. It is contended that the ICDS does not have a permanent tenure, due to which the engagement of the petitioners was extended from time to time upon approval of the competent authority. It is further contended that, pursuant to the Order dated 13.02.2014, the claim of the petitioners for conversion of their posts was considered at various levels of the Government, and it was decided that such benefit could not be extended to them. Extensive reliance has been placed on the judgment of the Supreme Court in ***State of Karnataka v. Uma Devi***, (2006) 4 SCC 1, to support the above plea of the respondents.

15. We are not impressed with the above submissions of the respondents. It is not denied that the petitioners have been working at the above post from 2007 onwards. In fact, one of them, that is, the petitioner no. 11, during the pendency of these proceedings and while awaiting the relief granted to her by the Order dated 13.02.2014, has since superannuated upon attaining the age of 60 years.

16. On the issue of the temporary nature of the ICDS scheme, we may note that the same was launched by the Central Government on 02.10.1975. Over the years, it has expanded considerably through successive Five-Year Plans. From 33 Blocks (Projects) with 4,891 Anganwadi Centres (AWCs) in 1975, the scheme has grown to 7,076 Projects with 14 lakh AWCs being approved in the year 2015. The planned allocation, which stood at Rs. 44,400 crores under the 11th Plan, was increased to Rs. 1,03,003 crores in the 12th Plan. The Government also approved the strengthening and restructuring of the ICDS Scheme with an allocation of Rs. 1,23,580 crores during the 12th Five-Year Plan.

17. As far as Delhi is concerned, the above-scheme was being implemented through 95 functional ICDS projects, comprising of 10,897 operational Anganwadi Centres out of a sanctioned strength of 11,150 AWCs in the year 2015-16.

18. The objectives of the scheme are stated as under:

> *"• To improve the nutritional and health status of children in the age group 0-6 years.*
> *• To lay the foundations for proper psychological, physical and social development of the child.*
> *• To reduce the incidence of mortality, morbidity, malnutrition and school drop-out.*
> *• To achieve effective coordinated policy and its implementation amongst the various departments to promote child development and*
> *• To enhance the capability of the mother to look after the normal health and nutritional needs of the child through proper nutrition and health education."*

19. From the above, it is evident that the posts on which the

petitioners were appointed, cannot, by any stretch of imagination, be termed as 'temporary'. The very fact that the petitioners have been working on the said posts for the last 18 years is itself a testament to this position.

20. The learned senior counsel for the petitioners has further submitted that, in terms of the Office Memorandum dated 23.05.2011, only three conditions were required to be met, they are as under:

> *"i. the temporary posts were in existence for more than three years*
> *ii. that those temporary posts were actually filled up, and*
> *iii. the posts are required on a long term basis."*

21. The above requirements were clearly met in the present case. Therefore, the learned Tribunal, by its Order dated 13.02.2014, directed that the posts be converted into permanent posts for the petitioners. In fact, the Office Notings placed on record by the respondents also reflect that, right from the Finance Department to the Planning Department to the Social Welfare Department, there was a consensus that the posts should be converted into permanent posts. It was only later, when it was realised that others might also make a similar claim, that the decision was overturned and the Order of the learned Tribunal dated 13.02.2014 remained unimplemented.

22. As far as reliance on ***Uma Devi*** (supra) is concerned, the said judgment and its purport have been explained by the Supreme Court in its recent judgment in ***Jaggo v. Union of India,***2024 SCC OnLine SC 3826, observing as under:-

*"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*5*, 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 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 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 Declaration*6 *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*7 *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.

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."

23. The Supreme Court has reiterated the above principles in ***Shripal & Anr. v. Nagar Nigam, Ghaziabad,*** 2025 SCC OnLine SC 221.

24. Applying the above principles to the facts of the present case, we find no infirmity in the direction issued by the learned Tribunal in its order dated 13.02.2014 in O.A. No.1360/2012. In our view, the learned Tribunal would have been justified in proceeding under its contempt jurisdiction against the respondents, and erred in dismissing the said contempt by modifying its Order dated 13.02.2014. However, as much time has since elapsed, and the petitioners did not, at the initial stage, challenge the said Order of the learned Tribunal but instead, perhaps out of helplessness, decided to file further O.As., we would not proceed in contempt jurisdiction against the respondents.

25. For reasons stated here and above, we would allow the petition with the following directions:

i. The respondents must implement para 11 (i) of the Order dated 13.02.2014 passed by the learned Tribunal in O.A. No. 1360/2012, within a period of eight weeks from today, giving all consequential actual benefits to the petitioners, including the petitioner no. 11 till the date of her reaching superannuation.

ii. The respondents shall also pay cost of Rs. 25,000/- to each of the petitioners.

26. The petition is disposed of in the above terms.

27. There shall be no order as to costs.

NAVIN CHAWLA, J

MADHU JAIN, J

SEPTEMBER 23, 2025/*prg/RM/DG*