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

\+ W.P.(C) 4646/2026, CM APPLs. 22658/2026 & 22659/2026

NEW DELHI MUNICIPAL COUNCIL
THROUGH ITS CHAIRMAN & ANR. .....Petitioners

Through: Ms. Archana Pathak Dave, ASG with Mr. Vaibhav Agnihotri, ASC with Ms. Suruchi Khandelwal, Mr. Vidit Pratap Singh and Mr. Raghav Sharma, Advs.

versus

KALPANA SHARMA & ORS. .....Respondents

Through: Dr. Monika Arora, with Mr. Subhrodeep Saha, Ms. Anamika Thakur and Mr. Abhinav Verma, Advs.

\+ W.P.(C) 4649/2026, CM APPLs. 22666/2026, 22667/2026 & 22668/2026

NEW DELHI MUNICIPAL COUNCIL & ANR. .....Petitioners

Through: Ms. Archana Pathak Dave, ASG with Mr. Vaibhav Agnihotri, ASC with Ms. Suruchi Khandelwal, Mr. Vidit Pratap Singh and Mr. Raghav Sharma, Advs.

versus

RITIKA ARORA & ORS. .....Respondents

Through: Dr. Monika Arora, with Mr. Subhrodeep Saha, Ms. Anamika Thakur and Mr. Abhinav Verma, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% 13.04.2026

C. HARI SHANKAR, J.

1. These writ petitions, at the instance of the New Delhi Municipal Council[1], assail a common order dated 25 November 2025 passed by the Central Administrative Tribunal[2] in OA 20/2022[3] and OA 3069/2021[4]. Ritika Arora and others, the respondents in WP (C) 4649/2026 are Auxiliary Nurse Midwifes[5] whereas Kalpana Sharma and others, the respondents in WP (C) 4646/2026 are Pharmacists.

2. By the impugned judgment, the Tribunal has directed regularisation of the respondents in the posts held by them. In doing so, the Tribunal has followed the judgment of the Division Bench of this Court in ***Pawan Sharma v. Govt. of NCT of Delhi*[6]**, authored by one of us (C. Hari Shankar, J.) which, in turn, followed the judgments of the Supreme Court in ***Vinod Kumar v. UOI*[7]**, ***Jaggo v. UOI*[8]**, ***Shripal v. Nagar Nigam, Ghaziabad*[9]** and ***Dharam Singh v. State of U.P.*[10]**.

3. After the rendition of the decision in ***Pawan Sharma*** by this Court, the same view has been reiterated by the Supreme Court in ***Bhola Nath v. State of Jharkhand*[11]** and ***Pawan Kumar v. UOI*[12]**.

4. Despite the matter being thus covered by a plethora of decisions

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[1] "NDMC", hereinafter
[2] "the Tribunal", hereinafter
[3] **Ritika Arora and Ors. v. New Delhi Municipal Council and Anr.**
[4] **Kalpana Sharma and Ors. v. NDMC and Anr.**
[5] "ANMs", hereinafter
[6] **2025 SCC OnLine Del 8313**
[7] **(2024) 9 SCC 327**
[8] **2024 SCC OnLine SC 3826**
[9] **2025 SCC OnLine SC 221**
[10] **2025 SCC OnLine SC 1735**
[11] **2026 SCC OnLine SC 129**

of the Supreme Court, the NDMC has yet again carried the dispute to this Court.

Facts

5. Though the facts in these writ petitions are identical, for the sake of clarity, we may advert to them separately.

WP(C) 4646/2026 (***NDMC v. Kalpana Sharma and Ors***.)

6. The respondents, who were Pharmacists registered with the Indian Pharmacy Council applied in response to an advertisement issued by the NDMC for filling up vacancies of Allopathic Pharmacists. It is not in dispute that the respondents satisfied the qualifications for recruitment as Pharmacists as set out in the advertisement. The recruitment was by way of open selection. The Selection Committee assessed the candidates, including the respondents, and appointed them as Pharmacists on the following dates:

S. No.	Name	Date of appointment
1	Kalpana Sharma	30.06.2008
2	Shweta Gupta	27.06.2008
3	Neha Thapliyal	30.06.2008
4	Neha Sikka	29.04.2014
5	Atul Sharma	20.01.2009
6	Pradeep Sharma	14.07.2008
7	Nitin Dabas	01.05.2014
8	Anuj Kumar	07.05.2014
9	Smrita Kumari	07.05.2014
10	Priyanka Yadav	29.04.2014
11	Rocky Wadhwa	30.01.2012

[12] **2026 SCC OnLine SC 200**

12	Harendra Kumar	27.06.2008
13	Bharti Bhargav	29.04.2014
14	Sanjay Dutt	22.08.2014
15	Sandeep	30.08.2014
16	Kartar Singh	30.07.2008
17	Sonam Ranga	30.08.2014

7. The appointments were on contract basis for a period of six months, which continued, and continue till today. A sample letter of an offer of appointment issued to one of the respondents may be reproduced as under:

"MEDICAL DEPARTMENT
CHGARAK PALIKA HOSPITAL
MOTI BAGH: NEW DELHI

No.DMO(ISM&H)/913/D/08 Dated 26.6.08

To,
Ms. Neha Thapliyal,
8-A/430, DDA Flats,
Tirlokpuri, Delhi-92

OFFER LETTER

Ms. Neha Thapliyal, candidate on the approved panel of Allopathic Pharmacists is offered the post of Allopathic Pharmacist on contract basis for a period of six months on the salary based upon the basic pay on ₹4500+75% usual allowances as admissible under contract rules.

In case the offer is accepted to you, you are advised to give your acceptance within 10 days of the receipt of this letter, failing which the offer will be given to the next candidate on wait list.

(Dr. N.D. Sharma)
CMO (ISM & H)

8. In OA 3069/2021 filed by the respondents before the Tribunal, in which the impugned judgment has come to be rendered, the

respondents specifically averred that the NDMC was, at that time, filling up all posts, including the posts of Medical Officer, Data Entry Operators and ANMs (to which category the respondents in WP(C) 4649/2026 belong) on contract basis and that their contracts were continued for years, and continue to be renewed till date.

9. Aggrieved by the fact that their services had never been regularised, and they were also not being paid at par with the pay drawn by regular Pharmacists, the respondents instituted OA 3069/2021 before the Tribunal, praying that they be regularised in the post of Pharmacists to which they were originally appointed on contract basis, with effect from the date of the original appointment and that they be granted the pay of regular Pharmacists from that date.

WP(C) 4649/2026 (***NDMC v. Ritika Arora and Ors.***)

10. Like the respondents in WP(C) 4646/2026, the respondents in this writ petition were also engaged by the NDMC, after advertisement and open selection, as ANMs against sanctioned vacancies. Their appointments were also on contract basis and continuously renewed from time to time. They continued to be renewed till date.

11. These respondents, too, approached the Tribunal by way of OA 20/2022, seeking regularisation as ANMs from the dates of their initial appointment. In this context, they also referred to a resolution passed by the NDMC on 27 August 2014, whereupon it had decided to regularise contractual workers. The respondents complained that

the resolution have been implemented in the case of Doctors serving in NDMC Hospitals, but had not been implemented in respect of other categories of employees. The respondents also relied on the judgment of the Division Bench of this Court in ***Pawan Sharma.***

The impugned judgment

12. Before the Tribunal, the NDMC argued that the respondents in these writ petitions, i.e., the applicants before the Tribunal, have been engaged on purely temporary contractual basis on consolidated remuneration with no right to regular appointment or parity of pay with regular employees. It was also emphasised that, under the Recruitment Rules[13] applicable to the posts in question, they were 100% direct recruitment posts and regularisation was not envisaged, in the RRs, as a mode of appointment. Having accepted the terms and conditions on which they were appointed on contract, the NDMC also submitted that the respondents were estopped from seeking regularisation.

13. The Tribunal has allowed the OAs filed by the respondents following the judgment of this Court in ***Pawan Sharma.*** Paragraphs 6 to 9 of the impugned judgment read as under:

> "6. We have heard the parties and gone through the documents placed record. The applicants were appointed through a proper selection process, are qualified, have been working for many years against sanctioned posts, and perform essential nursing/para-medical duties.
>
> 7. The issue involved is identical to that of ***Pawan Sharma***

[13] "RRs", hereinafter

(supra) and also an earlier decision by this Tribunal in O.A. 3597/2017, where it was held that employees who are selected through a regular recruitment-like process and continue to work for long periods in essential posts earn a right to regularisation, regardless of whether their initial engagement was contractual/ad-hoc/temporary. In Para 18 of ***Pawan Sharma (supra)*** the Hon'ble High Court has held as under:-

> "Article 141 of the Constitution of India makes the judgments in ***Vinod Kumar***, ***Jaggo***, ***Shripal*** and ***Dharam Singh*** binding on us. Article 144 requires us to act in the aid of the law declared by the Supreme Court, which would include making all efforts to ensure that the law declared by the Supreme Court is implemented with full vigour. We cannot, therefore, craft an exception into the law declared in ***Vinod Kumar***, ***Jaggo***, ***Shripal*** and ***Dharam Singh*** in cases where regular recruitment exercises were undertaken. Where petitioners had, by dint of their original appointment and continuous uninterrupted blemish free service on the post in which they were appointed, earned a right to regularization, they could not be compelled to participate in any recruitment exercise. Expressed otherwise, the omission on the part of the petitioners to participate in the regular recruitment exercises undertaken by the respondents cannot derogate from their right to regularization flowing from the facts of their cases and the law declared in ***Vinod Kumar***, ***Jaggo***, ***Shripal*** and ***Dharam Singh***."

8. The situation of the applicants herein, is exactly similar. Therefore, the same view is required to be taken here as well.

9. In view of what has been discussed herein above and following the judicial precedent in ***Pawan Sharma (supra)*** and in O.A. No. 3597/2017, this OA is also disposed of in similar terms, with directions to the respondents to fully implement the resolution dated 27.08.2014 in a time-bound manner, ensuring that the applicants receive all consequential benefits. The respondents shall not displace the applicants through direct recruitment until their regularization is effected. The arrears payable to the applicants on account of pay fixation, allowances, and notional pay fixation with effect from 27.08.2014 shall be released within a period of two months from the date of receipt of a certified copy of this order."

14. These writ petitions, at the instance of the NDMC, assail the aforesaid decision of the Tribunal.

15. We have heard Ms. Archana Pathak Dave, learned ASG for the petitioners and Dr. Monika Arora, learned counsel for the respondents, at length.

16. Ms. Dave submits that as per the NDMC Resolution dated 27 August 2014, NDMC had already written to the UPSC to finalize the RRs for the posts held by the respondents and to take a decision regarding their regularization in terms of the aforesaid circular. She, therefore, submits that the respondents ought to await the decision of the UPSC in that regard. To that extent, she seeks to submit that the case of the respondents in these writ petitions differs from the case of the persons who were before the Supreme Court in ***Jaggo*** and later decisions.

17. As against this, Dr. Monika Arora, appearing for the respondents, submits that the case is fully covered by the decision of this Court in ***Pawan Sharma*** and the later judgments of the Supreme Court in ***Bhola Nath*** and ***Pawan Kumar***.

18. Having heard learned counsel for the parties and applied ourselves to the material on record and the extant situation in law, we are in agreement with Dr. Arora that the controversy is squarely covered by the decisions of the Supreme Court in ***Vinod Kumar***, ***Jaggo***, ***Shripal***, ***Dharam Singh***, ***Bhola Nath*** and ***Pawan Kumar,*** of which the first four decisions were cited and relied upon by this Court in ***Pawan Sharma***. We may reproduce the legal position as it emerges from ***Vinod Kumar***, ***Jaggo***, ***Shripal*** and ***Dharam Singh***, as noted by

us in ***Pawan Sharma***, thus:

> "3. **Vinod Kumar v Union of India**
>
> 3.1 The appellants before the Supreme Court, in this case, were appointed as Accounts Clerks under a temporary scheme based arrangement, albeit after a selection process involving written test and *viva voce*. On the date when the judgment was rendered by the Supreme Court, they had been working continuously on the said posts for over 25 years. They petitioned the Central Administrative Tribunal[14], seeking regularization. The Tribunal, as well as thereafter the High Court, dismissed the pleas of the appellants on the ground that their appointments were temporary and made under a specific scheme. Reliance was placed, for the purpose, on the well-known decision of the Constitution Bench of the Supreme Court in **State of Karnataka v Uma Devi**[15].
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> 3.2 The Supreme Court reversed the decision of the Tribunal and the High Court, reasoning thus:
>
> > "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** 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*

[14] "Tribunal" hereinafter
[15] **(2006) 4 SCC 1**

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**.

7. The judgment in **Umadevi** 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** is reproduced hereunder:

> "53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in **State of Mysore v S.V. Narayanappa**[16], **R.N. Nanjundappa v T. Thimmiah**[17], and **B.N. Nagarajan v. State of Karnataka**[18] and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to 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

[16] **AIR 1967 SC 1071**
[17] **(1972) 1 SCC 409**
[18] **(1979) 4 SCC 507**

> 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."
>
> (emphasis in original)

> 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."

3.3 The takeaway

The following propositions emerge from this decision:

(i) What matters is the "essence of employment".

(ii) The rights flowing therefrom cannot be determined by the initial terms of appointment, where the actual course of employment has evolved significantly over time.

(iii) In assessing the rights of the employees, in such cases, the relevant considerations would be

> (a) continuous service of the employees in the capacities of regular employees,
> (b) performance of duties by such employees which are indistinguishable from those performed by holders of permanent posts and
> (c) selection of the employees by a process which mirrors regular recruitment.

(iv) The substantive rights of the employees, which have evolved over a period of time, cannot be perpetually denied by relying on non-compliance with procedural formalities at the commencement of employment.

(v) The substantive rights of such employees accrue over a considerable period through continuous service.

(vi) Even if appointments in such cases were not made strictly in accordance with the prescribed rules and procedures, they could not be treated as illegal if they had followed the procedure of regular employment such as conduct of written examinations and interviews.

3.4 Following the above reasoning, the Supreme Court held that the appellants before it were entitled to regular status and that failure to regularize them would run counter to the principles of equity and fairness. The respondents before the Supreme Court were, therefore, directed to regularize the appellants within three months.

4. **Jaggo v Union of India**

4.1 The appellants in **Jaggo** were *safaiwalas* and *khallasis*, engaged by the Central Water Commission[19] on part-time *ad hoc* terms in 1993, 1998 and 1999 for cleaning and maintaining offices of the CWC and for performing duties of gardening, dusting and ancillary maintenance. They were, therefore, performing essential housekeeping work necessary for keeping the offices of the CWC functioning. The appellants approached the Tribunal seeking regularisation. The Tribunal dismissed their OA, on the ground that they had not been engaged against regular vacancies and did not have, to their credit, sufficient full-time service of 240 days per year to entitle them to regularization. Following the judgment of the Tribunal, the services of the appellants were terminated on 27 October 2018. The appellants, therefore, approached the High Court seeking reinstatement and regularization. The High Court also dismissed the writ petition, observing that they

(i) were doing part-time work,
(ii) had not been appointed against sanctioned posts,
(iii) did not have, to their credit, sufficient full-time service needed for regularization and
(iv) did not possess the minimum educational qualifications for regular appointment.

The appellants challenged the decision of the High Court by way of SLP to the Supreme Court.

4.2 The following passages from the judgment of the Supreme Court set out its *ratio decidendi:*

> "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

[19] "CWC" hereinafter

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.*

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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.

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

requirements. However, where appointments were not illegal but possibly "irregular," and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a scenario demanding fair regularization. In a recent judgment of this Court in **Vinod Kumar v Union of India**, it was held that held that procedural formalities cannot be used to deny regularization of service to an employee whose appointment was termed "temporary" but has performed the same duties as performed by the regular employee over a considerable period in the capacity of the regular employee.

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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.*

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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.

(Italics supplied)

4.3 The takeaway

Thus, from the above passages, the propositions laid down by the Supreme Court, and the reasoning of the Supreme Court in allowing the appellants' appeals may be set out thus:

(i) Long standing and uninterrupted service of the appellants could not be brushed aside by labeling their initial appointment as part-time or contractual.

(ii) The essence of the appellants' employment had to be seen in the light of
(a) their sustained contribution,
(b) the integral nature of their work, and
(c) the fact that their entry was not through any illegal or surreptitious route.

(iii) The appellants were holding essential and indispensable functions related to the basic operational functionality of the CWC.

(iv) The appellants had rendered continuous and uninterrupted service for 10-20 years. Their re-engagement was not sporadic or temporary in nature. They, therefore, were performing regular and

recurrent service, akin to the responsibilities associated with the sanctioned posts. That the appellants' services were indispensable was also manifest from the fact that the respondent did not engage any other personnel to perform the tasks being performed by the appellants.

(v) In such circumstances, the respondent could not be permitted to contend that the posts held by the appellants were not regular, as the work performed by them was perennial and essential to the functioning of the CWC offices.

(vi) Recurrent nature of the duties performed by the appellants necessitated their classification as regular posts, irrespective of how their initial engagements labeled.

(vii) The subsequent outsourcing by the respondent of the services being performed by the appellants to private agencies also demonstrated the inherent need for the said services.

(viii) In such circumstances, the abrupt termination of the appellants without notice was arbitrary and violative of the principles of natural justice.

(ix) Contractual employees were also entitled to a hearing before any adverse action was taken against them, particularly where their service records were unblemished.

(x) The consistent performance of the appellants over a long period solidified their claim for regularisation. Their services were extended continuously.

(xi) In such circumstances, the respondent's plea that the appellants did not possess the requisite educational qualifications was unsustainable. Moreover, the appellants were performing Group-D work, for which educational qualifications were not central.

(xii) Besides, persons with less service than the appellants had been regularised, thereby also resulting in discrimination.

(xiii) The decision in **Uma Devi** was never intended to penalize employees with long years of service, performing necessary functions of the organization. It was intended to prevent backdoor entries and illegal appointments.

(xiv) Prolonged, continuous and unblemished service of the employees, performing essential tasks, transformed the initially

temporary employment into a scenario demanding fair regularisation.

(xv) As was held in **Vinod Kumar**, procedural formalities could not, in such circumstances, be used to deny regularisation of service to employees whose employment was termed "temporary", but who performed the same duties as were performed by regular employees, over an extended period.

(xvi) In such circumstances, the Court was required to look beyond the surface level of the appointment and to consider
(a) the realities of the employment,
(b) continuous and long-term service of the employee,
(c) the indispensable nature of their duties and
(d) the absence of *mala fides* or illegalities in their initial appointment.

(xvii) In such circumstances, refusing regularisation to the employees because their original terms of employment did not envisage regularisation, or because of belated outsourcing of same work, was contrary to the principles of fairness and equality.

(xviii) **Uma Devi** was often misinterpreted and misapplied to deny legitimate claims to regularisation, of long-serving employees.

(xix) In the case before the Supreme Court, claims of employees had been rejected even where their appointments were not illegal, but merely lacked adherence to procedural formalities.

(xx) **Uma Devi** had, thus, been weaponized against employees who had rendered indispensable service over decades.

4.4 Following the above reasoning, the Supreme Court quashed the termination order of the appellant before it, directed that they be reinstated and regularized forthwith, albeit back wages, but with continuity of service.

5. **Shripal v Nagar Nigam, Ghaziabad**

5.1 This was an appeal which emanated out of proceedings under the Industrial Disputes Act, 1947.

5.2 The workmen before the Supreme Court had been engaged as Gardeners in the Horticulture Department of the Ghaziabad Nagar Nigam[20] since 1998 and 1999. They continuously discharged horticultural and maintenance duties, though no formal

[20] "GNN", hereinafter

appointment letters were ever issued to them. In 2004, they raised an industrial dispute seeking regularisation. While the proceedings were pending, several of the workmen were terminated orally in mid July 2005. The State Government referred the disputes relating to regularisation of the workmen, as well as legality of their termination, to the Ghaziabad Labour Court for adjudication. The Labour Court passed contradictory orders, holding the termination illegal in some cases and holding that the workmen had no right to regularisation in others.

5.3 Cross writ petitions were filed by the GNN and the workmen before the High Court of Allahabad. The High Court, holding that several disputed issues existed, partially modified the award of the Labour Court, directing re-engagement of the workmen on daily wages with pay equivalent to minimum of the regular pay scale of Gardeners, as well as consideration of their regularisation in future.

5.4 The judgment of the High Court was also challenged before the Supreme Court both by GNN and the workmen.

5.5 Before the Supreme Court, the workmen contended that they had continuously discharged horticultural and maintenance duties under direct supervision and control of the GNN and that their longstanding and continuous employment entitled them to regularisation. It was also asserted that their termination was illegal. As against this, the GNN contended that

(i) no proper selection process had been followed to appoint the workmen,

(ii) their appointment was not against sanctioned posts,

(iii) all horticulture work was carried out through independent contractors appointed via tender,

(iv) in view of the decision in **Uma Devi**, no daily wager could claim a right to permanent absorption without adherence to constitutional requirements and in the absence of duly sanctioned vacancies, and

(v) the workmen had not demonstrated that they had completed 240 days of continuous work in any calendar year.

5.6 The Supreme Court held as under:

> "9. On a plain reading of this section, we can deduce that *any unilateral alteration in service conditions, including termination, is impermissible during the pendency of such proceedings unless prior approval is*

obtained from the appropriate authority. The record in the present case does not indicate that the Respondent Employer ever sought or was granted the requisite approval. Prima facie, therefore, this conduct reflects a deliberate attempt to circumvent the lawful claims of the workmen, particularly when their dispute over regularization and wages remained sub judice.

10. The Respondent Employer consistently labelled the Appellant Workmen as casual employees (or workers engaged through an unnamed contractor), yet there is no material proof of adherence to Section 6N of the U.P. Industrial Disputes Act, 1947, which mandates a proper notice or wages in lieu thereof as well as retrenchment compensation. In this context, *whether an individual is classified as regular or temporary is irrelevant as retrenchment obligations under the Act must be met in all cases attracting Section 6N. Any termination thus effected without statutory safeguards cannot be undertaken lightly.*

11. Furthermore, the Employer's stance that there was never a direct employer-employee relationship is wholly unsubstantiated. If, in fact, the Appellant Workmen had been engaged solely through a contractor, the Employer would have necessarily maintained some form of contract documentation, license copies, or invoices substantiating the contractor's role in hiring, paying, and supervising these workers. However, no such documents have been placed on record. Additionally, the Employer has failed to establish that wages were ever paid by any entity other than its own Horticulture Department, which strongly indicates direct control and supervision over the Workmen's day-to-day tasks is a hallmark of an employer-employee relationship. Had there been a legitimate third-party contractor, one would expect to see details such as tender notices, contract agreements, attendance records maintained by the contractor, or testimony from the contractor's representatives. The absence of these crucial elements undermines the Employer's claim of outsourced engagement. In fact, it appears that the Workmen were reporting directly to the Horticulture Department officials, receiving instructions on their duties, and drawing wages issued under the Municipality's authority. This pattern of direct oversight and wage disbursement substantially negates the narrative that they were “contractor's personnel.” Consequently, the discontinuation of their services carried out without compliance with statutory obligations pertaining to notice, retrenchment

compensation, or approval under Section 6E of the U.P. Industrial Disputes Act, stands on precarious ground. The very foundation of the Employer's defense (i.e., lack of an employer-employee relationship) is not supported by any credible or contemporaneous evidence.

12. The evidence, including documentary material and undisputed facts, reveals that *the Appellant Workmen performed duties integral to the Respondent Employer's municipal functions specifically the upkeep of parks, horticultural tasks, and city beautification efforts. Such work is evidently perennial rather than sporadic or project-based. Reliance on a general "ban on fresh recruitment" cannot be used to deny labor protections to long-serving workmen*. On the contrary, the acknowledged shortage of Gardeners in the Ghaziabad Nagar Nigam reinforces the notion that these positions are essential and ongoing, not intermittent.

13. By requiring the same tasks (planting, pruning, general upkeep) from the Appellant Workmen as from regular Gardeners but still compensating them inadequately and inconsistently the Respondent Employer has effectively engaged in an unfair labour practice. *The principle of "equal pay for equal work," repeatedly emphasized by this Court, cannot be casually disregarded when workers have served for extended periods in roles resembling those of permanent employees. Long-standing assignments under the Employer's direct supervision belie any notion that these were mere short-term casual engagements*.

14. The Respondent Employer places reliance on **Umadevi** to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, ***Uma Devi*** *itself distinguishes between appointments that are "illegal" and those that are "irregular," the latter being eligible for regularization if they meet certain conditions. More importantly,* ***Uma Devi*** *cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment.* Given the record which shows no true contractor-based arrangement and a consistent need for permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices.

> 15. It is manifest that the Appellant Workmen continuously rendered their services over several years, sometimes spanning more than a decade. Even if certain muster rolls were not produced in full, the Employer's failure to furnish such records—despite directions to do so—allows an adverse inference under well-established labour jurisprudence. Indian labour law strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature. Morally and legally, workers who fulfil ongoing municipal requirements year after year cannot be dismissed summarily as dispensable, particularly in the absence of a genuine contractor agreement…….
>
> *****
>
> 17. In light of these considerations, the Employer's discontinuation of the Appellant Workmen stands in violation of the most basic labour law principles. *Once it is established that their services were terminated without adhering to Sections 6E and 6N of the U.P. Industrial Disputes Act, 1947, and that they were engaged in essential, perennial duties, these workers cannot be relegated to perpetual uncertainty. While concerns of municipal budget and compliance with recruitment rules merit consideration, such concerns do not absolve the Employer of statutory obligations or negate equitable entitlements. Indeed, bureaucratic limitations cannot trump the legitimate rights of workmen who have served continuously in de facto regular roles for an extended period*."
>
> (emphasis supplied)

5.7 The Supreme Court also followed its earlier decision in **Jaggo**.

5.8 Following the above discussion, the Supreme Court directed reinstatement of the workmen and further directed the GNN to initiate a fair and transparent process for regularizing them within six months from the date of reinstatement, considering the fact that they have performed perennial municipal duties akin to permanent posts.

5.9 <u>The takeaway</u>

From this decision, the following propositions emerge:

(i) Where persons have been appointed and continuously worked on their posts uninterruptedly for long periods of time

without any complaint, it was unconstitutional to terminate them or not to regularize their services, especially where the work undertaken by them was perennial and essential in nature.

(ii) In such cases, the plea that no proper selection process had been followed or that the workmen had not been appointed against any sanctioned posts, was not available to the establishment.

(iii) **Uma Devi** did not militate against directing regularisation of the services of the workmen in such a case.

(iv) Nor were the workmen in such a case required to establish that they had completed 240 days of continuous service in any year.

(v) It was also not open to the establishment to contend, in such cases, that there was any ban on recruitment.

6. **Dharam Singh v State of UP**

6.1 In **Dharam Singh**, the Supreme Court carried the principles laid down in **Vinod Kumar**, **Jaggo** and **Shripal** a notch further.

6.2 **Dharam Singh** opened with the following exordium:

> "*When public institutions depend, day after day, on the same hands to perform permanent tasks, equity demands that those tasks are placed on sanctioned posts, and those workers are treated with fairness and dignity*. The controversy before us is not about rewarding irregular employment. *It is about whether years of ad hoc engagement, defended by shifting excuses and pleas of financial strain, can be used to deny the rights of those who have kept public institutions running*. We resolve it by insisting that public employment should be organised with fairness, reasoned decision making, and respect for the dignity of work."

6.3 The workmen in **Dharam Singh** had been employed as peon/ attendant and driver, on daily wage basis in the UP Higher Education Services Commission[21].

6.4 On 24 October 1991, the UPHESC resolved to create 14 Class 3 and Class 4 posts and sought sanction from the State Government. This request was reiterated by the UPHESC on 16 October 1999. The request was rejected by the State Government

[21] "UPHESC", hereinafter

on 11 November 1999 citing financial constraints.

6.5 The workmen thereupon approached the High Court of Allahabad by way of a writ petition, seeking a mandamus to the State to sanction/create 14 posts in Class 3/Class 4 for the UPHESC in terms of the resolution of the UPHESC and to regularize the workmen against the said posts.

6.6 This petition was disposed of, by the High Court on 24 April 2002 with a direction to the UPHESC to send a fresh recommendation for sanction of appropriate Group C/Group D posts and a direction to the State to take a fresh decision thereon. In the meanwhile, it was directed that the appellants be paid the minimum of the applicable pay scale.

6.7 Pursuant thereto, the UPHESC sent a fresh recommendation on 25 November 2003, which was again declined by the State, citing financial grounds and ban on creation of new posts.

6.8 This decision was again carried by the workmen to the High Court which dismissed the writ petition on 19 May 2009 on the ground that there were no rules for regularization in the UPHESC and that no vacancies existed in which the workmen could be accommodated and the prayer for regularization was, in any case, impermissible in view of the law laid down in **Uma Devi**. This decision was affirmed by the Division Bench of the High Court in appeal observing that the workmen were daily wagers and there was no provision in the Rules of the UPHESC envisaging their regularization and no vacancy existed in which they could be accommodated.

6.9 In these circumstances, the Supreme Court identified the issue that arose before it for consideration thus, in para 6:

> "6. The question before us is whether the High Court erred in failing to adjudicate the appellants' principal challenge to the State's refusals to sanction posts and treating the matter as a mere plea for regularization, and, if so, given the appellants' long and undisputed service, what appropriate relief ought to follow from this Court."

6.10 The Supreme Court held the approach of the High Court to be unacceptable. The relevant paragraphs from the decision of the Supreme Court may be reproduced hereunder:

> "8. *The State's refusal of 11.11.1999 cites "financial*

constraints" and the subsequent decision of 25.11.2003 (taken after the High Court's direction to reconsider) adverts to financial crisis and a ban on creation of posts. Neither decision engages with relevant considerations placed on record, namely, the Commission's 1991 resolution and repeated proposals, the acknowledged administrative exigencies of a recruiting body handling large cycles, the continuous deployment of these very hands for years, and the existence of attendant work that is primarily perennial rather than sporadic. While creation of posts is primarily an executive function, the refusal to sanction posts cannot be immune from judicial scrutiny for arbitrariness. We believe that a non-speaking rejection on a generic plea of "financial constraints", ignoring functional necessity and the employer's own longstanding reliance on daily wagers to discharge regular duties, does not meet the standard of reasonableness expected of a model public institution.

9. Moreover, *it is undisputed that the nature of work performed by the appellants, i.e. sorting and scrutiny of applications, dispatch and office support, and driving, has been continuous and integral to the Commission's functioning since their engagement between 1989 and 1992. The Commission itself moved for sanction of fourteen posts and furnished a list of fourteen daily wagers including the appellants. That consistent internal demand, coupled with uninterrupted utilisation of the appellants' labour on regular office hours, fortifies the conclusion that the duties are perennial. To continue extracting such work for decades while pleading want of sanctioned strength is a position that cannot be sustained.*

10. It must be noted that the premise of "no vacancy" is, in any event, contradicted by the evidence on record. An RTI response of 22.01.2010 received from the office of Respondent No. 2 indicated existence of Class-IV vacancies. Furthermore, I.A. No. 109487 of 2020 filed before this Court by the appellants specifically pointed to at least five vacant Class-IV/Guard posts and one vacant Driver post within the establishment. That application also set out the names of similarly situated daily wagers who were regularised earlier within the same Commission. No rebuttal was filed to the I.A. The unrebutted assertion of vacancies and the comparison with those who received regularisation materially undermine the High Court's conclusion that no vacancy existed and reveal unequal treatment vis-à-vis persons similarly placed. Selective

regularisation in the same establishment, while continuing the appellants on daily wages despite comparable tenure and duties with those regularized, is a clear violation of equity.

11. Furthermore, it must be clarified that the reliance placed by the High Court on **Umadevi (*supra*)** to non-suit the appellants is misplaced. Unlike **Umadevi (*supra*)**, *the challenge before us is not an invitation to bypass the constitutional scheme of public employment. It is a challenge to the State's arbitrary refusals to sanction posts despite the employer's own acknowledgement of need and decades of continuous reliance on the very workforce.* On the other hand, **Umadevi (*supra*)** draws a distinction between illegal appointments and irregular engagements and does not endorse the perpetuation of precarious employment where the work itself is permanent and the State has failed, for years, to put its house in order. Recent decisions of this Court in **Jaggo v Union of India** and in **Shripal v Nagar Nigam, Ghaziabad** have emphatically cautioned that **Umadevi (*supra*)** cannot be deployed as a shield to justify exploitation through long-term "ad hocism", the use of outsourcing as a proxy, or the denial of basic parity where identical duties are exacted over extended periods. The principles articulated therein apply with full force to the present case.

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12. We also note the Commission's affidavit filed in 21.04.2025 pursuant to the order of this Court dated 27.03.2025, wherein reference has been made to a supervening reorganisation in 2024, whereby the U.P. Higher Education Services Commission was merged into the U.P. Education Services Selection Commission and, by a Government Order of 05.07.2024, certain Group-C posts were sanctioned while Class-IV/Driver requirements were proposed to be met through outsourcing. *We must point out however, that supervening structural change cannot extinguish accrued claims or pending proceedings. The successor body steps into the shoes of its predecessor subject to liabilities and obligations arising from the prior regime. More fundamentally, a later policy to outsource Class-IV/Driver functions cannot retrospectively validate earlier arbitrary refusals, nor can it be invoked to deny consideration to workers on whose continuous services the establishment relied for decades.*

13. As we have observed in both **Jaggo (*supra*)**

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

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

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

16. The appeal must, accordingly, be allowed.

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

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

6.11 Following the above discussion, the Supreme Court issued the following directions in para 19 of the report:

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

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

iii. **Retired appellants:** *Any appellant who has already retired shall be granted regularization with effect from 24.04.2002 until the date of superannuation for pay fixation, arrears under clause (ii), and recalculation of*

pension, gratuity and other terminal dues. The revised pension and terminal dues shall be paid within three months of this Judgment.

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

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

6.12 The justification for issuing the above directions, which were unquestionably drastic in nature was thus provided in para 20 of the judgment:

"20. We have framed these directions comprehensively because, case after case, orders of this Court in such matters have been met with fresh technicalities, rolling "reconsiderations," and administrative drift which further prolongs the insecurity for those who have already laboured for years on daily wages. Therefore, we have learned that *Justice in such cases cannot rest on simpliciter directions, but it demands imposition of clear duties, fixed timelines, and verifiable compliance*. As a constitutional employer, the State is held to a higher standard and therefore it must organise its perennial workers on a sanctioned footing, create a budget for lawful engagement, and implement judicial directions in letter and spirit. Delay to follow these obligations is not mere negligence but rather it is a conscious method of denial that erodes livelihoods and dignity for these workers. *The operative scheme we have set here comprising of creation of supernumerary posts, full regularization, subsequent financial benefits, and a sworn affidavit of compliance, is therefore a pathway designed to convert rights into outcomes and to reaffirm that fairness in engagement and transparency in administration are not matters of grace, but obligations under Articles 14, 16 and 21 of the Constitution of India*."

6.12 The Takeaway

> 6.12.1 Besides reiterating the principles already contained in its earlier decisions in **Vinod Kumar**, **Jaggo** and **Shripal**, the Supreme Court in **Dharam Singh** went a step further and in fact granted the relief, sought by the appellants in that case, for a direction to the Executive Authorities to sanction posts and regularize the appellants against the said posts. This is a radical development in the law as, normally, the power to sanction posts vests exclusively in the Executive, and no mandamus can issue to an Executive Authority to create posts. The significance of this direction is underscored by the fact that, in **Union of India v Ilmo Devi**[22], one of the judgments which, in another similar case, was cited by us as contrary to the principles enunciated in **Jaggo**, the Supreme Court held against the employees precisely on the ground that the Court could not direct creation of posts. By endorsing the prayers of the appellants in **Dharam Singh** seeking issuance of such a direction, therefore, the Supreme Court has clearly heralded development of the law beyond **Ilmo Devi**.
>
> 6.12.2 The Supreme Court has also, in fact, noticed this fact in para 8 of the judgment. In the said paragraph, the Supreme Court observed that "while creation of posts is primarily an executive function, the refusal to sanction posts cannot be immune from judicial scrutiny for arbitrariness". Thus, in a case in which the appellants had been working since long, after being appointed on contractual basis, with their contracts being periodically extended, and when they were rendering essential functions, the Supreme Court went to the extent of directing creation of posts to accommodate and regularize the appellants."

19. From the decisions in ***Vinod Kumar***, ***Jaggo***, ***Shripal*** and ***Dharam Singh***, the position which emerges is that a right to regularization arises *ipso facto* in favour of the employees who were initially employed after open selection against sanctioned vacancies and continued on the posts for long periods of time. These three facts i.e., (i) appointment by open selection, (ii) appointment against sanctioned vacancies, and (iii) long and continued discharge of duties on the posts to which they were appointed, by themselves entitled them to regularization. In fact, in ***Jaggo***, the Supreme Court even went

[22] **(2021) 20 SCC 290**

to the extent of holding that it was not open to the respondents to contend that the appointments were not made against sanctioned vacancies.

20. The only other additional consideration which emerges from the later decisions on the issue is the duties discharged by the employees concerned. If the appointment is against posts which are transient in nature, the entitlement to regularization would be of a somewhat lower degree. If, however, the employees discharge duties which are basic and essential to the functioning of the organization, their right to regularization stands sanctified.

21. In such circumstances, there can be no question of the employees being required to await framing of RRs or any other such eventualities in order to be regularized. Their right to regularization flows as a consequence of long and unblemished service of the establishment consequent on appointment by open selection against sanctioned vacancies, for work which is essential to the functioning of the organization. It is not open to the establishment after extracting work from such persons for protracted periods of time to contest their claim to regularization on the ground that RRs were to be framed or that RRs which had been framed after the appointment of the respondents, did not qualify them for regularization.

22. We are not inclined to agree with Ms. Dave's contention that we should await the outcome of the correspondences between the NDMC and the UPSC. In para 4(v) of the writ petition, the NDMC has specifically averred that the UPSC rejected the proposal for

regularization mooted by the NDMC consequent on an earlier decision of the Tribunal rendered in OA 3597/2017 on the ground that the appointment of the employees was not in accordance with the RRs and that, therefore, their services could not be regularized merely because they had been serving the Establishment for a long period of time. Reliance was placed by the UPSC for this opinion, on the judgment of the Constitution Bench of the Supreme Court in ***State of Karnataka v Uma Devi***[23]**.** The view adopted by the UPSC is in the teeth of the law declared in ***Jaggo*** and the decisions which followed it and reiterated the same position. ***Uma Devi*** has been considered in all these decisions and the Supreme Court has consistently held that ***Uma Devi***, which was intended to be a beneficial decision, aimed at curbing back door appointment, has been weaponized and used as a tool to continue persons on contractual and *ad hoc* basis for years at a stretch without regularizing their services. Such a practice not only amounts to unfair labour practice but also violates Article 21 of the Constitution of India. As the UPSC has, in a similar case, refused to recommend regularization of the employees concerned, we are of the opinion that no useful purpose would be served by awaiting the reply of the UPSC even if NDMC has been communicating with the UPSC in that regard.

23. Besides, once the right of the respondents to regularization stands crystalized by, as on date, seven judgments of the Supreme Court, all of which are consistent with each other, it would be a travesty of justice and grossly unfair to the respondents to allow their cases to continue to remain in suspended animation.

[23] **(2006) 4 SCC 1**

24. It is true that in some earlier orders, we had issued notice without disposing of the matters, keeping in mind the fact that against earlier decisions passed by us, appeals had been preferred before the Supreme Court which had issued notice thereon and, in some cases, directed, as an interim measure, that the employees before it in those cases be not removed from the posts which were held by them. In view of the fact that the issue was *sub judice* before the Supreme Court in some cases, we had refrained from passing any final decisions in the writ petitions before us.

25. Ms. Dave predictably draws our attention to this fact.

26. After that, however, the same position had been reiterated by the Supreme Court twice, firstly, in ***Bhola Nath*** and thereafter in ***Pawan Kumar,*** rendered by two different Division Benches of the Supreme Court. ***Pawan Sharma*** expressly reproduces and relies on ***Jaggo***.

27. Once the Supreme Court has made its view thus clear, we, as a Court hierarchically lower on the judicial ladder, are bound to decide the *lis* before us in terms of the law declared by the Supreme Court.

28. Besides in view of the decisions in ***Jaggo***, ***Shripal, Dharam Singh***, ***Bhola Nath, Vinod Kumar*** and ***Pawan Kumar*** and the judgment of this Court in ***Pawan Sharma***, we find no error whatsoever in the view adopted by the Tribunal.

29. However, we clarify that the respondents would be entitled to exactly the same benefits which were granted to the petitioners in ***Pawan Sharma,*** i.e., to be regularised prospectively with however, the benefit of fixation of pay, seniority and continuity of service from the date of initial appointment but without any back wages.

30. Para 9 of the impugned judgment stands modified in the above terms.

31. Subject to this limited clarification, the present appeals are dismissed *in limine*.

32. Let implementation of the impugned judgment be ensured within 12 weeks from today.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

APRIL 13, 2026*/aky/yg*