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

% Reserved on : 04.08.2026
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CNR No. DLHC013200682017

\+ **W.P.(C) 6128/2017, CM APPL. 25462/2017, CM APPL. 8588/2018, CM APPL. 15611/2021, CM APPL. 24634/2024 and CM APPL. 65733/2024**

NORTH DELHI MUNICIPAL COORPORATION.....Petitioner

Through: Mr. Tushar Sannu, Standing Counsel MCD and Mr. Vaibhav Tripathi, Advocates

versus

VANDANA & 22 ORS .....Respondent

Through: Mr. Rajiv Agarwal, Ms. Meghna De, Ms. L. Gangmei and Mr. Tusshay Singh, Advocates

CNR No. DLHC010905222018

\+ **W.P.(C) 3276/2018 & CM APPL. 12892/2018**

EAST DELHI MUNICIPAL CORPORATION .....Petitioner

Through: Mr. Tushar Sannu, Standing Counsel MCD and Mr. Vaibhav Tripathi, Advocates

versus

JOLLY JOSEPH & ORS .....Respondent

Through: Mr. Rajiv Agarwal, Ms. Meghna De, Ms. L. Gangmei and Mr. Tusshay Singh,

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Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. By way of this common judgment, this Court shall decide two writ petitions filed under Article 226 of the Constitution of India. Both petitions assail the impugned award dated 05.05.2017 passed by the Industrial Tribunal, *Karkardooma* Courts, in **I.D. No. 166/16** (**Old I.D. No. 197/11**), whereby 23 Auxiliary Nurse Midwives (hereinafter "ANMs") were held entitled to regularisation of their services from the dates of their first appointment.

2. **W.P.(C) 6128/2017** has been filed by the North Delhi Municipal Corporation (hereinafter "NDMC") against all 23 ANMs, being respondent nos. 1 to 23, and the Govt. of NCT of *Delhi*, being respondent no. 24.

W.P.(C) 3276/2018 has been filed by the East Delhi Municipal Corporation (hereinafter "EDMC") against 3 of those ANMs, namely *Smt. Jolly Joseph*, *Smt. Ranjana Mitra*, and *Smt. Nitu*, being respondent nos. 1 to 3, and the Deputy Labour Commissioner, District East/North East, being respondent no. 4.

3. For convenience, NDMC and EDMC are collectively referred to as "the petitioners", the Municipal Corporation of Delhi as it stood before its trifurcation in 2012 is referred to as "the erstwhile MCD", and the 23 ANMs are referred to as "the workwomen".

4. NDMC's petition was listed for the first time on 21.07.2017,

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when this Court directed that no coercive action shall be taken against the petitioner. On 09.04.2018, it was clarified that the said interim order relates to NDMC alone and not to any other municipal corporation. EDMC filed its petition on 21.03.2018, and *vide* order dated 25.04.2018, the two petitions were directed to be listed together.

5. Upon the unification of the three municipal corporations of *Delhi* w.e.f. 22.05.2022, both petitions are being prosecuted by the Municipal Corporation of Delhi (hereinafter "MCD").

6. During the pendency of these petitions, the Delhi Subordinate Services Selection Board (hereinafter "DSSSB") advertised posts of ANM in MCD on 05.03.2024. The workwomen sought a stay of the advertisement. In reply, MCD filed an affidavit of its Additional Deputy Commissioner (Health) in May 2024, stating that there were 288 vacant posts of ANM, of which only 144 had been sent to the DSSSB for recruitment, and the remaining 144 had been held back on account of the pending litigations.

7. The relevant facts in a nutshell are that the workwomen were engaged as ANMs in the Health Department of the erstwhile MCD on contractual basis, 16 of them between August and October 2001 and the remaining 7 between September 2005 and December 2008. Their engagements were for a period of 6 months at a time on a consolidated monthly remuneration, with the engagement letters stating that they would continue till the posts were filled on a regular basis. The engagements were renewed from time to time. The later agreements, such as the one executed with *Smt. Vandana*, engaged them for a fixed

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period or till the list of selected candidates for the post of ANM was received from the DSSSB, whichever was earlier.

8. On 19.11.2010, the workwomen, through the Hospital Employees' Union, served a demand notice seeking regularisation. Conciliation proceedings were initiated but failed, and *vide* order dated 19.12.2011, the Govt. of NCT of *Delhi* referred the dispute to the Industrial Tribunal, the question being whether the workwomen were entitled to be regularised as ANMs from their initial dates of joining in the pay scale of Rs.5,200-20,200/-.

9. During the pendency of the reference, the erstwhile MCD was trifurcated in 2012. Out of the 23 workwomen, 13 came to work with NDMC, 3 with EDMC, and 7 with the South Delhi Municipal Corporation.

Notably, the South Delhi Municipal Corporation has not challenged the impugned award and the award, insofar as it pertains to the 7 workwomen, stands implemented.

10. In their statement of claim, the workwomen had pleaded that they were appointed after the vacancies were advertised and a selection by a duly constituted board; that they fulfilled the Recruitment Rules for the post; that they had been working continuously against sanctioned vacant posts; and that they were being paid less than what their regular counterparts received for the same work. They contended that keeping them on contractual basis for years amounted to an unfair labour practice.

11. The erstwhile MCD contested the claim and raised objections to

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its maintainability. On merits, it pleaded that the Recruitment Rules required the post of ANM to be filled through a test conducted by the DSSSB, and that the workwomen had been engaged on contract only until such recruitment was made. It further pleaded that it had no policy for regularising contractual employees, its regularisation policy being meant only for daily wage workers.

12. The workwomen examined themselves as WW-1 to WW-23. The management examined three witnesses, namely *Sh. C. V. Adyalkar*, Administrative Officer (Health) (MW-1), *Sh. Louis Daniel*, Administrative Officer (Health) (MW-2), and Dr. *Devender Kumar Seth*, Director, Hospital Administration, NDMC (MW-3).

13. In the impugned award, the Tribunal relied heavily upon the admissions made by MW-2 and MW-3 in their cross-examination. It found that the workwomen had been appointed through advertisement and selection by a duly constituted board; that they fulfilled the Recruitment Rules; that they had been working continuously against sanctioned vacant posts for periods ranging from 10 to about 16 years; and that the management had not proved even a single appointment letter issued to any candidate selected through the DSSSB. It held that continuing the workwomen on contractual basis amounted to an unfair labour practice under Item 10 of the Fifth Schedule to the Industrial Disputes Act, 1947 (hereinafter the "ID Act"), and that the workwomen were, in any event, covered by the exception carved out in *Secretary, State of Karnataka Vs. Umadevi*[1]. Accordingly, the

[1] (2006) 4 SCC 1

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Tribunal held that the workwomen had made out a case for regularisation of their services on the post of ANM w.e.f. the dates of their first appointment, as set out in Annexure A to the order of reference and in their statement of claim, in the pay scale of Rs.5,200-20,200/- with all benefits, and answered the reference accordingly.

14. A few days before the impugned award was passed, NDMC, *vide* office order dated 27.04.2017, dispensed with the services of the workwomen working with it. *Vide* office order dated 26.05.2017, they were re-engaged for a period of 6 months, and thereafter they were again disengaged.

15. As regards EDMC, after the impugned award was passed, its 3 workwomen moved applications under Section 33-C(1) of the ID Act before the Deputy Labour Commissioner. EDMC's representative appeared but filed no reply, and on 19.06.2017 the Deputy Labour Commissioner directed issuance of recovery certificates. Upon EDMC failing to deposit the amounts despite notice dated 29.06.2017 issued by the office of the Assistant Collector Grade-II, District *Shahdara*, its bank account was attached on 24.07.2017 and the award amounts were paid to the 3 workwomen. EDMC then issued show cause notices dated 29.08.2017 and 06.09.2017 to them, and *vide* office order dated 23.10.2017 directed as under:

> "*The Competent Authority of EDMC has ordered withholding further engagement on contract basis beyond 30.09.2017 of three ANM's viz Smt. Jolly Joseph, Smt. Nitu & Smt. Ranjana Mitra till they deposit the entire amount attached in Municipal Treasury.*"

16. The 3 workwomen raised a claim against the said office order

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before the Deputy Labour Commissioner, on which notice dated 07.12.2017 was issued to EDMC. The claim was withdrawn on 16.03.2018. In its petition, EDMC has sought the setting aside of the impugned award, a refund of the amounts recovered from it, and the quashing of the proceedings before the Deputy Labour Commissioner, including the notice dated 07.12.2017.

17. Learned counsel for the petitioners, while assailing the impugned award, contends that the workwomen were engaged purely on contractual basis for fixed periods or till regular recruitment was made through the DSSSB, and having accepted those terms, they cannot claim regularisation. It is contended that under the Recruitment Rules, the post of ANM is a direct recruitment post, and regular recruitment is made by the DSSSB on the requisition of the management after a written examination. Reliance is placed on Section 92A of the Delhi Municipal Corporation Act, 1957 to contend that direct recruitment to category 'B' and category 'C' posts is to be made by the Government through the agency prescribed by it, which is the DSSSB.

It is further contended that there is no policy for regularisation of contractual employees, and in the absence of such a policy, regularisation cannot be directed. Relying on *Umadevi* (*supra*), learned counsel contends that public employment must be through open competition and that the impugned award permits a back-door entry. It is also contended that the workwomen were given an opportunity to appear in the examination held in 2007 and failed to

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qualify, and the demand notice raised in 2010 was an attempt to overcome that failure. Learned counsel further contends that the answer of MW-2 to the effect that the management had blatantly indulged in unfair labour practice is a typographical error and cannot be treated as an admission.

Learned counsel also contends that regularisation with retrospective effect would disturb the seniority of persons directly recruited through the DSSSB, and in this regard, points out that the operation of the judgment of the Division Bench of this Court in *MCD Vs. Pradeep Rana*[2], which upheld a similar direction, was stayed by the Supreme Court on 14.02.2025.

It is additionally contended with respect to EDMC that the impugned award was published on 28/29.06.2017 and though under Section 17 of the ID Act, became enforceable only thereafter, the recovery certificates were issued and the amounts recovered from EDMC. It is contended that the amounts so recovered must be refunded, and that the proceedings before the Deputy Labour Commissioner, including the notice dated 07.12.2017, ought to be quashed.

18. *Per contra*, learned counsel for the respondents submits that none of the grounds urged by the petitioners shows the impugned award to be without jurisdiction, perverse, or in violation of the principles of natural justice, and therefore no interference is called for under Article 226 of the Constitution of India. He submits that the

[2] LPA 720/2024, decided on 14.08.2024

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Tribunal has returned findings of fact on the basis of admissions made by the management's own witnesses, namely that the workwomen were appointed after advertisement and through selection, that they fulfil the Recruitment Rules, and that they have been working against sanctioned vacant posts for years.

Learned counsel further submits that *Umadevi* (*supra*) does not curtail the power of an Industrial Tribunal to direct regularisation upon finding an unfair labour practice, and in support relies upon the decisions in *Delhi Administration Vs. Yogender Singh*[3], *Project Director, Department of Rural Development Vs. Its Workmen*[4], and *Amrish Kumar Vs. Indian Institute of Mass Communication*[5], submitting that the special leave petitions against the latter two decisions have been dismissed. He also relies upon the decision of a Coordinate Bench of this Court in *Govt. of NCT of Delhi Vs. Nisha*[6], which upheld an award regularising ANMs working with the Govt. of NCT of *Delhi*. He submits that the said decision was affirmed by the Division Bench of this Court as well as by the Supreme Court. Reliance is also placed on another decision by a Coordinate Bench of this Court in *MCD Vs. Kishni*[7].

Learned counsel further submits that the petitioners have themselves admitted the existence of 288 vacant posts of ANM, so the impugned award can be implemented without creating any new post.

[3] 1996 SCC OnLine Del 849
[4] 2019 SCC OnLine Del 7796
[5] 2020 SCC OnLine Del 1915
[6] W.P.(C) 15950/2023, decided on 12.12.2023
[7] 2024 SCC OnLine Del 690

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Lastly, it is submitted that the amounts recovered from EDMC were paid to the 3 workwomen in proceedings under Section 33-C(1) of the ID Act in which EDMC participated, and they are dues under an award which has never been stayed *qua* EDMC.

19. I have heard the learned counsels for the parties and gone through the record.

20. At the outset, this Court takes note of the limited scope of interference with an award of an Industrial Tribunal under Article 226 of the Constitution of India. In *Syed Yakoob Vs. K.S. Radhakrishnan*[8], the Supreme Court explained that the Writ Court exercises a supervisory and not an appellate jurisdiction, and held as under:

> "*7. ... There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. ...*"

21. Now, Section 2(ra) of the ID Act defines "unfair labour practice" as any of the practices specified in the Fifth Schedule to the ID Act, and Section 25T of the ID Act prohibits employers from committing such unfair labour practices. Significantly, Item 10 of Part I of the Fifth Schedule reads as under:

> "*10. To employ workmen as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of*

[8] AIR 1964 SC 477

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permanent workmen."

22. Though the learned counsel for the petitioners has placed a great deal of reliance on the decision in *Umadevi* (*supra*) to deny relief of regularisation, a gainful reference can be made to the subsequent decision in *Bhola Nath Vs. State of Jharkhand*[9], wherein, while agreeing with the appellants and taking note of *Umadevi* (*supra*), the Supreme Court deprecated the practice of employers continuing with *ad hocism* and further observed as under:

> "***Limits on Perpetual Contractual Engagements:***
>
> *13.2. In the present case, the respondent-State had engaged the services of the appellants on sanctioned posts since the year 2012. It was only towards the end of the year 2022 that the respondents communicated that no further extension of the appellants' engagement was likely to be granted.*
>
> *13.3. In our considered opinion, the aforesaid action is not only vitiated by arbitrariness but is also in clear derogation of the equality principles enshrined in Article 14 of the Constitution. The respondent-State initially engaged the appellants in their youth to discharge public duties and functions. Having rendered long and dedicated service, the appellants cannot now be left to fend for themselves, particularly when the employment opportunities that may have been available to them a decade ago are no longer accessible owing to age constraints.*
>
> *13.4. We are unable to discern any rational basis for the respondent-State's decision to discontinue the appellants after nearly ten years of continuous service. We are conscious that the symbiotic-relationship between the appellants and the respondent-State was mutually beneficial, the State derived the advantage of the appellants' experience and institutional familiarity, while the appellants remained in public service. In such circumstances, any departure from a long-standing practice of renewal, particularly one that frustrates the legitimate expectation of the employees, ought to be supported by cogent reasons recorded in a speaking order.*
>
> *13.5. Such a decision must necessarily be a conscious and*

[9] 2026 SCC OnLine SC 129

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reasoned one. An employee who has satisfactorily discharged his duties over several years and has been granted repeated extensions cannot, overnight, be treated as surplus or undesirable. We are unable to accept the justification advanced by the respondents as the obligation of the State, as a model employer, extends to fair treatment of its employees irrespective of whether their engagement is contractual or regular.

13.6. This Court has, on several occasions, deprecated the practice adopted by States of engaging employees under the nominal labels of "part-time", "contractual" or "temporary" in perpetuity and thereby exploiting them by not regularizing their positions. In Jaggo v. Union of India, this Court underscored that government-departments must lead by example in ensuring fair and stable employment, and evolved the test of examining whether the duties performed by such temporary employees are integral to the day-to-day functioning of the organization.

13.7. In Shripal v. Nagar Nigam and Vinod Kumar v. Union of India, this Court cautioned against a mechanical and blind reliance on Umadevi (supra) to deny regularization to temporary employees in the absence of statutory rules. It was held that Umadevi (supra) cannot be employed as a shield to legitimise exploitative engagements continued for years without undertaking regular recruitment. The Court further clarified that Umadevi itself draws a distinction between appointments that are "illegal" and those that are merely "irregular", the latter being amenable to regularization upon fulfilment of the prescribed conditions.

13.8. In Dharam Singh v. State of U.P., this Court strongly deprecated the culture of "ad-hocism" adopted by States in their capacity as employers. The Court criticised the practice of outsourcing or informalizing recruitment as a means to evade regular employment obligations, observing that such measures perpetuate precarious working conditions while circumventing fair and lawful engagement practices.

13.9. The State must remain conscious that part-time employees, such as the appellants, constitute an integral part of the edifice upon which the machinery of the State continues to function. They are not merely ancillary to the system, but form essential components thereof. The equality mandate of our Constitution, therefore, requires that their service be reciprocated in a manner free from arbitrariness, ensuring that decisions of the State affecting the careers and livelihood of such part-time and contractual employees are guided by fairness and reason.

13.10. In the aforesaid backdrop, we are unable to persuade ourselves to accept the respondent-State's contention that

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the mere contractual nomenclature of the appellants' engagement denudes them of constitutional protection. The State, having availed of the appellants' services on sanctioned posts for over a decade pursuant to a due process of selection and having consistently acknowledged their satisfactory performance, cannot, in the absence of cogent reasons or a speaking decision, abruptly discontinue such engagement by taking refuge behind formal contractual clauses. Such action is manifestly arbitrary, inconsistent with the obligation of the State to act as a model employer, and fails to withstand scrutiny under Article 14 of the Constitution.

FINAL CONCLUSION:

14. In light of our discussion, in the foregoing paragraphs, we summarize our conclusions as follows:

I. The respondent-State was not justified in continuing the appellants on sanctioned vacant posts for over a decade under the nomenclature of contractual engagement and thereafter denying them consideration for regularization.

II. Abrupt discontinuance of such long-standing engagement solely on the basis of contractual nomenclature, without either recording cogent reasons or passing a speaking order, is manifestly arbitrary and violative of Article 14 of the Constitution.

III. Contractual stipulations purporting to bar claims for regularization cannot override constitutional guarantees. Acceptance of contractual terms does not amount to waiver of fundamental rights, and contractual stipulations cannot immunize arbitrary State action from constitutional scrutiny.

IV. The State, as a model employer, cannot rely on contractual labels or mechanical application of Umadevi (supra) to justify prolonged ad-hocism or to discard long-serving employees in a manner inconsistent with fairness, dignity and constitutional governance.

V. In view of the foregoing discussion, we direct the respondent-State to forthwith regularize the services of all the appellants against the sanctioned posts to which they were initially appointed. The appellants shall be entitled to all consequential service benefits accruing from the date of this judgment."

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23. Coming to the facts of the present case, the work of an ANM is perennial in nature. The workwomen were engaged directly by the erstwhile MCD and they have continued to perform the same work as ANMs for well over a decade. The question before the Tribunal was whether they were kept on contractual basis for years with the object of depriving them of the status of regular employees. In this regard, the Tribunal placed reliance upon the deposition of management's own witnesses.

24. MW-2/*Sh. Louis Daniel*, in his cross-examination, stated as under:

> "*The above mentioned 23 workmen fulfill Recuitment Rules for the post of Auxilliary Nurse Midwife. ... It is correct that before appointment of the workmen an advertisement was given in newspaper for the post of ANM. It is correct that in response to the advertisement the concerned workmen and others applied for the job of ANMs. ... It is correct that concerned workmen are working against sanctioned vacant post of ANM since their appointment. ... It is correct that in Recruitment Rules no where mentioned that selection process of the workmen will be conducted by DSSSB.*"

25. MW-3/Dr. *Devender Kumar Seth*, in his cross-examination, stated as under:

> "*It is correct that it is not mentioned the Rrs of the of the post of ANM Ex. MW 1/80 that the recruitment would be through DSSSB. Vol. DSSSB did not exist at the time when the RRs were notified. No amendment has been made in the RRs for the post of ANM after coming into existence of DSSSB. ... It is correct that at the time of appointment of the workmen, post was advertised and the selection board duly appointed them on the post of ANM. Vol. On contract basis.*"

26. These admissions establish that the workwomen were selected after a public advertisement by a selection board constituted by the

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management, they held the qualifications prescribed by the Recruitment Rules, and they were placed against sanctioned vacant posts. Learned counsel for the petitioners has sought to explain away one answer of MW-2 as a typographical error. Even if that answer is kept aside, the admissions extracted above remain, and they are sufficient to hold that the workwomen were not back-door entrants.

27. As noted hereinabove, the written statement raised only two pleas on merits, namely that recruitment could only be through the DSSSB, and that there was no policy of regularisation.

28. As regards the first plea, the Recruitment Rules for the post of ANM, by the admission of both MW-2 and MW-3, do not provide for recruitment through the DSSSB.

29. Reliance by the petitioners on Section 92A of the Delhi Municipal Corporation Act, 1957 is also misplaced. The said provision reads as under:

> "*92A. Recruitment to category B and category C posts. The direct recruitment to category B and category C posts may be made by the Government through such agencies as may be prescribed by it.*"

Section 92A is an enabling provision which permits the Government to make direct recruitment through a prescribed agency. It does not render unlawful an appointment made by the municipal body through an advertisement and a selection board, where the Recruitment Rules for the subject post say nothing about the DSSSB.

30. The conduct of the management further belies this plea. The workwomen's contracts were to last till candidates selected through

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the DSSSB became available. The DSSSB did recommend candidates for the post of ANM *vide* its result notice dated 13.08.2008, and a further requisition was sent in the year 2012. Yet the workwomen continued to be engaged and contracts were renewed for years thereafter, and as noted in the impugned award, the management did not prove before the Industrial Tribunal a single appointment letter issued to any candidate selected through the DSSSB. Further, in his affidavit, MW-2 himself stated that no recruitment had been made by the DSSSB against the requisition of 2012.

31. In any event, as noted above, MCD has itself stated on affidavit that out of the 288 vacant posts of ANM, 144 have been held back on account of the pending litigations. The present petitions are confined to only 16 workwomen, 13 in **W.P.(C) 6128/2017** and 3 in **W.P.(C) 3276/2018**.

32. As regards the second plea, the power of an Industrial Tribunal to direct regularisation upon finding an unfair labour practice does not depend upon the existence of a regularisation policy. In *Yogender Singh* (*supra*), the award of the Industrial Tribunal regularising daily paid workers from the date of their initial appointment was assailed on similar grounds, namely that the Recruitment Rules had not been followed and that regularisation could only be under a scheme. A Coordinate Bench of this Court, while dismissing the said writ petition, held as under:

> "*44. Besides the factual position distinguishing the case in hand from the cases cited above, it needs also to be kept in view that the Industrial Tribunal is not bound by the*

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> *rigid rules of law. The process which an Industrial Tribunal employs in coming to a decision is not a judicial process. It may confer rights and privileges on either party which it considers reasonable and proper, though they may not be within the terms of any existing document. It may even create new rights and obligations which it may consider essential for keeping industrial peace. (See Bharat Bank, Ltd. 1950 LLJ 921). It is for this reason that it is said that the Award of the Tribunal may contain provisions for settlement of a dispute which no court could order if it was bound by ordinary law, but the Tribunal is not fettered in any way by these limitations. [See Western Indian Automobile Association v. Industrial Tribunal 1949 LLJ 245]. It may also be remembered that if found to be warranted by the facts and circumstances of the case, the Industrial Tribunal may even grant relief from a date anterior to the date on which the dispute is raised (See: Sarva Shramik Sangh v. Indian Hume Pipe Co. Ltd. (1993) 2 SCC 386 at page 391). This, then, is the power of the Industrial Tribunal.*
>
> *45. In the case before me the Industrial Tribunal had the jurisdiction. What has been decided falls within its jurisdiction, and not outside it. Add to it the fact that the Award suffers not even from an error in the exercise of jurisdiction. Why should, then, I interfere?*"

33. Disputes such as the present one, wherein contractual employees of public employers, including the Govt. of NCT of *Delhi* and the municipal corporations, have sought regularisation on the ground of unfair labour practice, have repeatedly come before this Court. The awards directing regularisation in such cases have consistently been upheld.

34. In *Project Director* (*supra*), this Court took note of the decision in *Umadevi* (*supra*). In that case too, the workmen had not been recruited through any regular process. Their names were forwarded by the *Rajya Sainik Board*, they were interviewed by a selection committee constituted by the department, and they were appointed as

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caretakers on contract, with their engagements being extended from time to time. The Industrial Tribunal directed their regularisation, and this Court, while upholding the award, held as under:

> "*27. In my view, the rigors applicable for grant of regularization in cases of public employment cannot be read in such a manner so as to take away the wide powers of an Industrial Tribunal under the ID Act. It needs no reiteration that the basic tenets of service law are very different from those of labour law and, therefore, the safeguards put in place to protect the interests of workmen cannot be conflated with the service rules and regulations applicable to government employees in the public sector. Both of them stand on a different footing and can neither be tested on the same touchstone nor enforced in the same manner. Therefore, I am of the opinion that neither the decision in Uma Devi (supra) nor in Anil Lamba (supra) has any application to the facts of the present case. Even otherwise, a perusal of the decision in Uma Devi (supra) shows that with respect to the regularization of temporary employees, the Supreme Court itself had specifically carved out an exception for those contractual employees who, though appointed irregularly, had completed at least 10 years of service. In the facts of the present case, the respondents/workmen have as on date completed more than twenty-two years of service and, therefore, even as per the decision in Uma Devi (supra), they would be entitled to the regularization of their services.*
>
> *...*
>
> *29. ... In my opinion, once the Tribunal was of the view that the petitioner was indulging in unfair labour practice, it was well within its domain to pass an order directing the petitioner to regularize the respondents' services. ...*"

The special leave petition preferred against the said decision, bearing **SLP (C) Diary No. 34164/2019**, was dismissed by the Supreme Court *vide* order dated 14.10.2019.

35. The case of the present workwomen stands on an even stronger footing. In *Project Director* (*supra*), the Govt. of NCT of *Delhi* had

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contended that no post of caretaker had ever been sanctioned. After the special leave petition against that decision was dismissed, the Revenue Department, Govt. of NCT of *Delhi*, *vide* order dated 24.11.2020, which has been placed on record by the respondents, created 32 supernumerary posts of caretakers to regularise the caretakers in compliance with that decision. Even where no posts were available, the decision was implemented by creating posts. In the present case, the workwomen have been working against sanctioned vacant posts since their appointment, as admitted by MW-2, and no post needs to be created to give effect to the impugned award.

36. As regards the date from which regularisation has been granted, in *Amrish Kumar* (*supra*), this Court, after taking note of *Project Director* (*supra*), directed regularisation of casual workers of a Government institute from their initial date of joining, observing as under:

> "*7. The facts of the instant case as discussed hereinabove clearly show that keeping the workmen in uninterrupted service for 23 years as casual workmen and denying them the status and privilege of permanent workmen, constitutes unfair labour practice which is illegal and needs to be quashed. ... That being the position i.e. they had worked for almost 23 years; the employer was same; they had been working against the sanctioned posts; they were not considered as regular employees, therefore, the treatment meted out to them constitutes unfair labour practice. In the circumstances, their services too shall be regularized from initial date of joining, with all consequential benefits.*"

The special leave petition preferred against the said decision, bearing **SLP (C) No. 710/2021**, was dismissed by the Supreme Court *vide* order dated 10.12.2021.

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37. The issue of regularisation of ANMs specifically arose in *Nisha* (*supra*). ANMs engaged on contractual basis since 2000-2001 at various Maternity and Child Welfare Centres and dispensaries of the Govt. of NCT of *Delhi* had raised an industrial dispute seeking regularisation and salary in the regular pay scale. The management had contended, *inter alia*, that their engagement was purely contractual under a project and that they were not entitled to the benefits of regular employees. The Industrial Tribunal allowed the claim, and the Coordinate Bench of this Court, relying upon *Project Director* (*supra*), dismissed the writ petition filed by the Govt. of NCT of *Delhi*. The Letters Patent Appeal filed against the same, bearing **LPA No. 530/2024**, was also dismissed by the Division Bench of this Court *vide* decision dated 25.07.2024. The special leave petition against the said decision, bearing **SLP (C) Diary No. 57566/2024**, also came to be dismissed by the Supreme Court on 10.02.2025.

38. Challenges by MCD itself to awards of regularisation have met the same fate. In *Kishni* (*supra*), the Industrial Tribunal had directed regularisation of a *Safai Karamchari* engaged by MCD as a part-time worker. MCD assailed the award, contending, *inter alia*, that no direction for regularisation could be issued *de hors* its policy. A Coordinate Bench of this Court dismissed the writ petition.

39. Most recently, in *Pradeep Rana* (*supra*), the Industrial Tribunal had directed regularisation of contractual Assistant Malaria Inspectors of MCD from their initial dates of joining. The writ petition filed by

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MCD was dismissed by a Coordinate Bench of this Court[10]. In its Letters Patent Appeal against the said decision, MCD raised contentions akin to those raised in the present case: that the workmen had not undertaken the examination conducted by the DSSSB, that their regularisation would lead to seniority disputes with direct recruits and cause financial burden, and that the award was contrary to *Umadevi* (*supra*) and *Oil and Natural Gas Corporation Vs. Krishan Gopal*[11]. Rejecting these contentions, the Division Bench held as under:

> "*12. As mentioned above, present is not a case where the employees have approached this court through writ action, seeking regularization of their services. The respondents herein, being workmen, raised industrial dispute on the allegation that the appellant had been indulged in unfair labour practice by keeping the respondents in job on temporary basis since the year 2010 and the industrial adjudicator on the basis of evidence adduced during trial arrived at a finding in that regard against the appellant. There is no dispute that the engagement of the respondents in the year 2010 was against sanctioned posts. Also admittedly, the respondents were engaged as contractual workers through a selection process pursuant to an advertisement, so it is not a case where the respondents were engaged surreptitiously, thereby depriving the members of general public, willing to compete. It also cannot be denied that the job of Malaria control and public health issues are perennial in nature and requirement to man those posts of Assistant Malaria Inspector continues till date. It is also nobody's case that the respondents do not possess the requisite qualifications for the job in question.*
>
> …
>
> *14. We are of the considered view that once the learned Industrial Tribunal arrived at a finding that the appellant was*

[10] W.P.(C) 3339/2024, decided along with W.P.(C) 8391/2020 and connected matters on 31.05.2024
[11] (2021) 18 SCC 707

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> *indulging in unfair labour practice, the Tribunal was completely justified in directing the appellant to regularize the respondents and in that regard, the appellant has failed to show any reason for us to interfere with the discretion exercised by the learned Tribunal.*"

40. Although learned counsel for the petitioners has pointed out that the special leave petition against the decision in *Pradeep Rana* (*supra*) is pending before the Supreme Court, keeping in view that the decisions of this Court in respect of similarly situated workmen have been upheld, and the special leave petitions against several of them have been dismissed, this Court is not inclined to interfere with the impugned award.

41. Even otherwise, the plea that the workwomen took and failed an examination in 2007 is a matter of fact which was for the Tribunal to weigh, and in any case, MW-2 stated that he did not know anything about the selection board of May 2007. As for the plea that retrospective regularisation would disturb the seniority of persons directly recruited through the DSSSB, no such plea was raised before the Tribunal, and no such direct recruit is before this Court.

42. This leaves the separate prayers of EDMC. EDMC has objected that the recovery certificates were issued before the impugned award became enforceable. However, EDMC participated in the proceedings under Section 33-C(1) of the ID Act without filing any reply, and the amounts recovered from it were paid to its 3 workwomen as dues under the impugned award, which now stands upheld. As noted above, the interim order dated 21.07.2017 was confined to NDMC, and EDMC did not obtain any interim order in its own petition. EDMC is,

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therefore, not entitled to a refund. As regards the notice dated 07.12.2017, the claim on which it was issued was withdrawn on 16.03.2018, before EDMC filed its petition, and nothing survives for adjudication on that prayer.

43. In view of the foregoing, the impugned award is upheld, and both writ petitions are dismissed.

44. The pending applications are also disposed of in the above terms.

(MANOJ KUMAR OHRI)
JUDGE

OCTOBER 30, 2026
nb

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