



2025:DHC:8717-DB



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

Date of decision: 24.09.2025

(20)+ W.P.(C) 13562/2024 & CM APPL. 56701/2024, CM APPL. 76570/2024

(21)+ W.P.(C) 16940/2024 & CM APPL. 71759/2024

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr.Ajit Kumar Pathak, SPC
with Ms.Akriti Pathak, Adv. in
W.P.(C) 13562/2024

Mr.Jitesh Vikram Srivastava,
SPC with Mr.Prajesh Vikram
Srivastava, Adv. in W.P.(C)
16940/2024

versus

CHATUR SINGH & ORS.

.....Respondents

MS. ANJALI NEGI & ORS.

.....Respondents

Through: Mr.A.K. Trivedi, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. These petitions have been filed, challenging the Orders dated 06.12.2023 and 19.01.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No.387/2019, titled *Chatur Singh & Ors. v. Union of India & Ors.*; and O.A. No.3465/2019, titled *Ms.Anjali Negi & Ors. v. Union of India & Ors.*, respectively, allowing the O.A.s filed by the respondents herein.



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2. For the sake of brevity, we shall take the facts from W.P.(C) 13562/2024.

3. To give a brief background of the facts in which the present petition arises, the respondents had filed the above O.A. claiming therein that they are working as Monument Attendants on a casual basis in the Archaeological Survey of India since 1995-2011. It was claimed that they were appointed by following the due process of selection, that is, by inviting applications from the open market. It was further contended that the nature of duties performed by the respondents is regular and permanent in nature, however, instead of appointing them as regular employees, they had been appointed on a casual basis.

4. The petitioners, in their counter affidavit before the learned Tribunal, had contended that the respondents had been engaged under the project for the particular year for the miscellaneous duties of maintenance and upkeep of the centrally protected monuments/sites by the respective site in-charge of various monuments/sites and were being paid wages as per the orders of the Chief Labour Commissioner, Government of India, issued from time to time. It was further contended that it was only post the implementation of the 6th Central Pay Commission, when the post of Monument Attendant, which was previously a Group 'D' post, was upgraded to a Group 'C' post and was re-designated as Multi Tasking Staff (MTS), that the Recruitment Rules for the post of MTS were framed. It was further contended that the respondents, however, had been engaged in service prior thereto. It



was also stated that the services of the respondents would be discontinued after the filling up of the total sanctioned strength of vacancies through the regular selection process of employment, by applying the applicable principles.

5. The learned Tribunal, however, by the Impugned Order, noted that similar employees had filed an O.A., being O.A. No. 060/00641/2017, before the Shimla Circuit Bench of the Chandigarh Bench of the learned Tribunal, which was allowed by the learned Tribunal *vide* Order dated 07.01.2019, with the following directions:

“7. In view of the foregoing discussion and keeping in view the law laid down in Uma Devi (supra) and DOPT OM dated 29.07.2015 regarding guidelines for age and qualification relaxation and regularization of Casual Labour with Temporary Status, this OA deserves to be allowed. Ordered accordingly. Annexures A-1 dated 03.08.2015 denying age and qualification relaxation to the applicants and Annexure A-5 dated 17.06.2015 proposing to fill the posts of MTS through SSC directly are quashed. Respondents are directed to regularize the services of the applicants as MTS after imparting relevant training as per DOP&T OM. The relevant exercise he carried out within three months of receipt of a certified copy of this order.”

6. The learned Tribunal further placed reliance on the judgment of the High Court of Jammu and Kashmir in ***Ghulam Nabi Ahangar & Ors. v. Union of India & Ors.***, 2018:JKLHC-SGR:109, and allowed the O.A. with the following directions:

“9. In view of the facts brought out above, we are of the considered opinion that the applicants in the present OA are similarly



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*situated to those in **Ghulam Nabi Ahangar** (supra) CCP(S) No.370/2022 in SWP No.290/2018 dated 12.11.2018 and need to be treated in the same manner. Accordingly, we dispose of this OA with the following directions:*

(i) Those applicants, who have completed 10 years or more service, be extended the same benefit as has been extended by the respondents vide their Office Order No.A-64/62/2022-Adm.II dated 17.05.2023 of Archaeological Survey of India.

(ii) The aforementioned order be issued within a period of three months from the date of receipt of a certified copy of this order.”

7. The learned counsel for the petitioners submits that the respondents were not entitled to be considered for regularisation inasmuch as they had not been appointed on a regular basis and were not entitled to the benefit of the judgment of the Supreme Court in **Secretary, State of Karnataka & Ors. v. Uma Devi & Ors.**, (2006) 4 SCC 1.

8. Placing reliance on the judgment of this Court in **Sanju Singh & Ors. v. Union of India & Ors.**, 2023:DHC:6611-DB, he submits that the plea of the respondents was liable to be dismissed.

9. On the other hand, the learned counsel for the respondents places reliance on the judgment of the Supreme Court in **Jaggo v. Union of India & Ors.**, 2024 SCC OnLine SC 3826, to contend that the judgment of the Supreme Court in **Uma Devi** (supra) has been explained by the Supreme Court, and it has been held that where the persons perform duties that are perennial in nature and that are equivalent to duties performed by persons appointed to regular posts,



their services are liable to be regularised if they have worked in such positions for more than 10 years. He submits that mere nomenclature of casual/temporary would not defeat the rights of such employees.

10. We have considered the submissions made by the learned counsels for the parties.

11. In *Jaggo* (supra), the Supreme Court explained its earlier decision in *Uma Devi* (supra) emphasising that there has to be a difference appreciated between illegal and possibly irregular appointments, and where appointments were not illegal but possibly irregular and employees had served continuously against the backdrop of sanctioned functions for a considerable period of time, the need for a fair and humane resolution becomes paramount. The Supreme Court has emphasised that the initial label of engagement of such persons and an outsourcing decision, if any, taken by the employer, would have no effect on the rights of such persons. What needs to be considered is whether the engagement of these persons was for essential duties, performed on a daily and continuous basis over extensive periods, or was only sporadic and temporary in nature. We quote from the Judgment as under:

“20. It is well established that the decision in Uma Devi (supra) does not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment sought to prevent backdoor entries and illegal appointments that circumvent constitutional requirements. However, where appointments were not illegal but possibly “irregular,” and where employees had served continuously against the



economy but also sets a concerning precedent that can erode public trust in governmental operations.

23. The International Labour Organization (ILO), of which India is a founding member, has consistently advocated for employment stability and the fair treatment of workers. The ILO's Multinational Enterprises Declaration encourages companies to provide stable employment and to observe obligations concerning employment stability and social security. It emphasizes that enterprises should assume a leading role in promoting employment security, particularly in contexts where job discontinuation could exacerbate long-term unemployment.

*24. The landmark judgement of the United State in the case of **Vizcaino v. Microsoft Corporation** serves as a pertinent example from the private sector, illustrating the consequences of misclassifying employees to circumvent providing benefits. In this case, Microsoft classified certain workers as independent contractors, thereby denying them employee benefits. The U.S. Court of Appeals for the Ninth Circuit determined that these workers were, in fact, common-law employees and were entitled to the same benefits as regular employees. The Court noted that large Corporations have increasingly adopted the practice of hiring temporary employees or independent contractors as a means of avoiding payment of employee benefits, thereby increasing their profits. This judgment underscores the principle that the nature of the work performed, rather than the label assigned to the worker, should determine employment status and the corresponding rights and benefits. It highlights the judiciary's role in rectifying such misclassifications and ensuring that workers receive fair treatment.*



25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

- **Misuse of "Temporary" Labels:**

Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labeled as "temporary" or "contractual," even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.

- **Arbitrary Termination:** Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.

- **Lack of Career Progression:** Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.

- **Using Outsourcing as a Shield:** Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively



replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.

• Denial of Basic Rights and Benefits: *Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.*

*26. While the judgment in **Uma Devi** (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between “illegal” and “irregular” appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in **Uma Devi** (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively*



weaponizing it against employees who have rendered indispensable services over decades.

27. In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country.”

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

13. In the present case, as is noted hereinabove, it is not denied by the petitioners that the respondents have been appointed as Monument Attendants and have been working since 01.01.1999 to 01.10.2007 till date. Therefore, they have worked continuously for more than 10 years as on the date of the filing of the O.A. Furthermore, the duties performed by them were essential, perennial in nature, and performed on a daily and continuous basis over extensive periods, being duties related to the maintenance and upkeep of centrally protected

