



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

% *Reserved on: 02nd February, 2026*
Pronounced on: 16th April, 2026

+ **W.P. (C) 4216/2007**

1. SHRI MOHINDER PAL

S/o Sh. Tula Ram
R/o H. No.100-A, Vikas Vihar,
Kakraula, New Delhi.

2. SHRI RAKESH KUMAR

S/o Sh. Banwari Lal
R/o V.P.O.- Dulhera, Jhajjar, Haryana.

3. SHRI VAZIR SINGH

S/o Sh. Om Prakash
R/o H.No.K-80, Bal Udyan Road,
Uttam Nagar, New Delhi.

4. SHRI SANJAY SINGH

S/o Sh. Kartar Singh
R/o V.P.O. Salaudha, Jhajjar, Haryana.

5. SHRI BIRENDER KUMAR

S/o Sh. Madan Shah
R/o H.No.13, Type-1st, Second Floor, NSIT,
Azad Hind Fauz Marg, Sec.-3, Dwarka, New Delhi.

6. SHRI HARI OM SINGH

S/o Sh. Hoshiar Singh
R/o V.P.O. Salaudha, Jhajjar, Haryana.

7. SHRI BALRAJ

S/o Sh. Sardar Singh
R/o V.P.O.- Nizampur, New Delhi.

8. SHRI RAMPHAL

S/o Sh. Singh Ram
R/o V.P.O.- Chhatera, Bhadurpur,
Sonapat, Haryana.



9. **SHRI SAT PAL SINGH**
S/o Sh. Sultan Chand
R/o V.P.O.- Nizampur, New Delhi.
10. **SHRI PAVITRA KUMAR DAS**
S/o Shri Devendra Das
R/o H.No.D-62, Sewak Park, New Delhi.
11. **SHRI LAL SINGH**
S/o Shri Kripa Ram
R/o RZD-62, Sewak Park, New Delhi.
12. **SHRI BIREMDRA PRASAD NIRALA**
S/o Shri Nathuni Prasad
R/o H.No.B-665, Mahavir Enclave,
Part-II, New Delhi.
13. **SHRI BENI LAL**
S/o Shri Nathuni Prasad
R/o H.No.B-665, Mahavir Enclave,
Part-II, New Delhi.
14. **SHRI MANOJ KUMAR**
S/o S.R. SARDAR SINGH
R/o H.No.513/4, Hari Nagar, Line Park,
Bahadurgah, District Jhajjar, Haryana.
15. **SHRI JAGBIR SINGH**
S/o Shri Hoshiar Singh
R/o H.No.27-C, V.P.O.- Mundka, Delhi.
16. **SHRI RAM SWAROOP PRASAD**
S/o Shri Bhola Prasad
C/o Shri Jag Mohan Singh
H.No.RZ-15, G-1st, Sita Puri,
Part-II, New Delhi.
17. **SHRI PRAVEEN KUMAR SINGH**
S/o Sh. Rajdeo Singh



R/o A-1-337, Madhu Vihar, Delhi.Petitioner
Through: Ms. Anjali Kumari and Mr.
JitendraKumar Singh, Advocates.

versus

1. **GOVT. OF N.C.T. OF DELHI**
Through the Chief Secretary,
Delhi Secretariat, Near ITO, New Delhi.
2. **PROFESSOR P.B. INDER SAIN**
Chairman, Board of Governing Body,
Netaji Subhas Institute of Technology,
(formerly Delhi Institute of Technology)
an autonomous Institute of Govt. of N.C.T. of Delhi,
Azad Hind Fauj Marg, Sector-3, Dwarka,New Delhi.
3. **DR. RANJIT SINGH**
Director-cum-Principal
Netaji Subhas Institute of Technology,
(formerly Delhi Institute of Technology)
an autonomous Institute of Govt. of N.C.T. of Delhi,
Azad Hind Fauj Marg, Sector-3, Dwarka,New Delhi.Respondents
Through: Mrs. Avnish Ahlawat Standing
Counsel, GNCTDServices withMr.
Nitesh Kumar Singh,Ms. Aliza
Alamand Mr. MohnishSehrawat,
Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Writ Petition under Articles 226/227 of the Constitution of India has been filed on behalf of 17 Petitioners *for directing the Respondents to regularize the Petitioners from their respective dates of joining with the Respondents as Daily Wager, as their Fundamental Right under Article 14 of the Constitution of India.*



2. *The petitioners stated that the Respondent No.2 is a State* within the meaning of Article 12 of the Constitution of India and enjoys monopoly status conferred upon it by the State. In 1987, Respondent No.2 was wholly managed by Respondent No.1 and only in 1987, Society was formed for taking care of administration and other matters in regard to Respondent No.2. Furthermore, Respondent No.2 received maximum financial assistance from the State and a large quantum of State control is also present in its functioning.

3. Petitioners submit that all 17 Petitioners were employed with Respondent No.2 as casual labour, in different jobs, such as gardener, peon, cleaner & helper etc. Since 1991, Petitioners used to be appointed *vide* Office Orders issued by Respondent No.2 and the appointment was always for 89 days. They were appointed on different dates for a long period by showing **one artificial break after every 89 days**. Petitioners were paid by Respondent No.2 in accordance with the daily wage rate, as per the guidelines of Respondent No.1. up to 09.01.2006.

4. Right from the inception, Respondent No.2 had been following an unfair and improper policy of employing the Petitioners for a period of 89 days, by giving a gap of one day. Thereafter, they used to be re-appointed for a fresh period of 89 days. This exercise was conducted only with a purpose to defeat any claim for regularization that the Petitioners might claim in future.

5. Petitioners claim that while continuing to work with Respondent No.2, they completed 230 days of service in a given period of 365 days. They made various representations and had verbal discussions for being



appointed and absorbed on a regular basis. However, no action was taken by the Respondents on the representations and the Petitioners continued to be employed for a period of 89 days at a time.

6. Petitioners also brought to the attention of the Respondents the guidelines / circular by Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training dated 07.06.1988, which was applicable to the Respondents.

7. A *Circular dated 08.01.1990* issued by Finance Secretary, Delhi Administration was circulated amongst all the Heads of Departments of Delhi Administration, regarding casual workers and daily wagers. The Circular mentioned that the Executive Council had decided to adopt guidelines contained in the *Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training O.M. No.490/4/2/86-Estt.(C) dated 07.06.1988 relating to recruitment of casual workers and persons on daily wages*. It was also mentioned that keeping in view the Judgment of the Hon'ble Supreme Court, the daily wagers, who had been employed for more than six months, that is to say, a period of 180 days, should be regularized. **Petitioners claimed that they have worked for more than 240 days in a year and therefore, were entitled for being regularized.**

8. Another *Guideline dated 10.09.1993* was issued by the Department of Personnel and Training, wherein it was decided to give temporary status to all casual labourers/employees, who were in employment on the date of issuance, i.e. 10.09.1993, and who had rendered continuous service for at least one year which is to say, for a period of at least 240 days.



9. This Office Memorandum further indicated that conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts. It further states that conferment of temporary status on casual laborer, would not involve any change in their duties and responsibilities, they may be deployed anywhere within the recruitment unit/territorial circle, on the basis of availability of work. It further stated that such casual labourers with temporary status, *will not be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.*

10. In view of these Office Memorandums dated 08.01.1990 and 10.09.1993, Petitioners again made representation to the Respondents for being granted a temporary status, but no action was taken *vide* Office Order dated 22.11.1995, Petitioners' period of temporary employment was extended for another period of 89 days from 02.11.1995 to 29.01.1996.

11. Thereafter, when Petitioners reported for duty on 09.01.1996, they were informed by one Shri Sanjay Uppal, employed in the capacity of Project Officer with Respondent No.2, that henceforth, Petitioners would be working under the private contractors and would not be employed by the Respondents thereafter.

12. Feeling aggrieved and shocked by this information, Petitioners again met the Officers concerned. The main grievance was that they being employed and receiving salary from Respondent No.2, could not be transferred arbitrarily to a private contractor.

13. On 10.01.1996, the Petitioners gave a representation to Respondent No. 2, as their transfer was patently illegal, unjust and *malafide*. The



Petitioners reported for work on daily basis, but were not allowed to carry on their duties on 25.01.1996, Sh. Sanjay Uppal informed them that until they signed an undertaking stating that they would be ready and willing to work for private contractors after 29.01.1996, they would not be allowed to continue in their present job. The Petitioners refused this illegal attempt to force them to work for the private person. Even otherwise, this offer condition was in violation of Articles 14 and 16 of the Constitution of India and was in contravention of Officer Memorandum.

14. The Respondents had persons who were junior to Petitioners, who had been unconditionally retained, while illegal and unjust conditions were imposed upon the Petitioners, for allowing them to continue in employment. Despite bringing this fact to the knowledge of Respondents, no action was taken. Respondents had claimed that this condition was imposed due to there being no work for the Petitioner, however, if that was the case, the workers who were junior to the Petitioners, should have been first given offer of this optional employment with the private contractor.

15. The Petitioners were working in Dwarka Project of Delhi Institute of Technology. There was plenty of work for the Petitioners in the capacity of gardeners, peons, helpers and cleaners etc. Therefore, it was only with a view to deprive the Petitioners of their rightful regularization that the Respondents mooted the idea of making them work with the private contractor.

16. It further came to the knowledge of the Petitioners that the Respondents had entered into an Agreement with M/s Nilothi Labour Construction Co-operative Society Ltd. represented by one Sh. Manoj



Kumar, whereby Respondents agreed to award the work of security services and horticulture to the Co-operative Society, in total disregard to the interests and welfare of the Petitioners.

17. In middle of January 1996, the Petitioners were not allowed to work on their assigned duties and were forwarded to work under private contractor.

18. Petitioners thus, filed Writ Petition (C) No. 3274/1996 titled as Ashok Kumar Sharma and Others vs. NCT of Delhi and Others before this Court. Notice was issued on this Writ Petition and after hearing the Petition, the Writ was disposed of *with the directions that the Respondent Institute to keep Petitioners on a Panel, prepared on the basis of length of service and as and when the vacancy arises against a Regular Class IV Post, the Petitioners would be given preference in employment to such Posts, provided their fulfilling the eligibility criteria for such Posts.* While considering the cases of the Petitioners for such appointment, weightage of their past services shall also be given and *age bar, if any, shall not be made applicable in the cases of Petitioners.*

19. Thereafter, there existed regular posts with the Respondents, but they got the work done through contractors, employees and other daily wage employees, despite vacant posts and failed to comply with the directions of this Court. The Petitioners thus, filed a *Contempt Petition bearing No. CCP No.328/1998.* During the pendency of the Contempt Petition, the Respondents instead of fulfilling the vacancies from the Petitioners, advertised for fulfilling the vacancies of Class IV and sought Applications from public at large.



20. Petitioners then again filed *CWP No.2435/2000* for stay against the advertised vacancies. This Court, *vide* Order dated 15.05.2000, restrained the Respondents from finalizing the Selection List on the basis of Employment Notice No. 2/2000.

21. In the face of the restraint Order, Respondents tried to create friction amongst Petitioners and gave some attractive greed to the Petitioners. The Respondents succeeded in their motive as Shri Daulat Ram, who was looking after all the affairs of legal cases of the Petitioners and could be a leader, was allowed to join the duties from 15.05.2000, i.e. on the same day when the Restraint Order was passed by this Court.

22. The appointment of Shri Daulat Ram was considered from General Provident Fund-cum-Pension Gratuity Scheme, despite the fact that he was junior to all the Petitioners, as he had joined only in 1995, but to break the unity of the Petitioners, he was considered beyond all Rules and Regulations.

23. The Contempt Petition was pending, but the Respondents were not ready to comply with the direction issued by this Court. Thereafter, the Respondents filed an *Application bearing CM No.5733/2004* and produced a Panel of Workers for empanelment of the Petitioners and the same was accepted by the Petitioners and they withdrew their Contempt Application.

24. The Respondents, in the meantime, issued Offer of Appointment to Petitioners, for different Posts *vide* Letter dated 11.06.2004, wherein some terms and conditions were directed to be complied with. It stated that the Petitioners shall remain on probation for one year and shall be appointed subject to the conditions that they were fit after medical examination and



also procured Character Certificates. It is claimed that this was an arbitrary clause since the Petitioners had already served Respondents for the long time.

25. After the long process, the Petitioners were allowed to join, after their medical examination on different dates i.e. 20.07.2004 and thereafter, were given payment for salary from their respective dates.

26. The Petitioners requested the Respondents about their date of joining. Despite assurances, Letters were issued in this regard, but Petitioners were then forced to write a letter to the Respondents, but they were not in a position to explain why they would not be considered for provident fund benefits, retirement benefits as well as pension from their date of joining, i.e. initial joining as daily worker, as the other juniors who had joined the Respondents after joining the Petitioners, were granted exceptional opportunity. It is claimed that the Petitioners were not confirmed on a regular post from the date of joining as daily wagers and for increment and also for fixation on basic pay from the date of joining.

27. The Respondents issued Letter dated 21.12.2006 in response to the Letters and denied them the regular scale and benefits from the date of initial joining. Hence, the Petitioners have filed the present Petition *to direct that their dates of joining be considered for regularization of service and for giving increments and other benefits accordingly.*

28. *Counter Affidavit was filed on behalf of the Respondents*, who took the preliminary objection that the Writ Petition was liable to be dismissed on the grounds of *constructive Res Judicata*. The Petitioners, who were working on daily wages with the answering Respondents on Group D Posts



on different dates starting from 1991, were discontinued from January 1996. Petitioners had then filed *CWP No.3274/1996 seeking continuation in service and regularization*. This Writ was disposed of on 29.04.1998, as this Court was of the view that the Petitioners, cannot as a matter of right, claim regularization of their service, only because they had completed 240 days of service with the Respondent Institute. This Court held that they can be given regular appointment only in accordance with the Rules applicable to the Institute.

29. Relying upon the decision of the Supreme Court in *Delhi Development Horticulture Employees' Union vs. Delhi Administration*, AIR 1992 SC 789, this Court directed the empanelment of the Petitioners on the basis of length of service and to consider them as and when regular vacancies arose in Regular Class IV Posts with preference in employment being given to the Petitioners, subject to fulfillment of eligibility criteria. The weightage of past service was directed to be given and age bar was held to be not applicable to the Petitioners.

30. This Court did not grant the relief of regularization to the Petitioners and only granted them an option for regular appointment against the vacancies that may arise. The present Petition is barred by Principle of *constructive Res Judicata*. Reliance is placed on *State of Karnataka vs. Uma Devi*, (2006) 4 SCC 1.

31. Respondents further stated that the directions of the High Court were complied with and the Panel was prepared and the Contempt Petition was accordingly, withdrawn by the petitioners. The Appointment Letters were issued to the individuals including the Petitioners and other leftover



individuals, on 11.06.2004 and on they having accepted the same, appointed them on probation, after they were declared medically fit. Finally, regular appointments were accepted by the Petitioners, who have joined service. Now they cannot seek regularization from the date of their initial appointment as daily wagers 1991, 1992, 1993 and 1994 respectively, especially when they got disengaged in January 1996.

32. The Representation of the Petitioners were rejected *vide* Letter dated 21.12.2006 and the regular appointments were given strictly as per the Orders of this Court. The individuals are entitled to regular scales and benefit of regular posts only from the date of their appointment on regular basis.

33. On merit, all the amendments made in the present petition were denied and it was asserted that there was no merit in this Writ Petition.

34. Petitioners, in their Rejoinder, reaffirmed the assertions as made in the Petition.

35. Written Synopsis was filed by the Petitioners as well as the Respondents respectively on similar lines.

Submissions heard and record perused.

36. The Petitioners were admittedly appointed between 1991-1994 as daily wagers on various posts as gardeners, peons, cleaners, helpers and security guards etc. It is also not in dispute that their services were terminated on 1996, when they were put in the service of the private contractor.

37. Admittedly, *Writ Petition (C) No. 3274/1996* was filed by the Petitioners, wherein the violation of O.M. dated 07.06.1988 and 10.09.1993



were claimed. Basically, their contention was that they were being made to work for 89 days and given an artificial break of one day, even though they had been working regularly on the posts.

38. In the Writ Petition, as has been rightly submitted by the Respondents, this issue of artificial break was specifically considered in the light of the two O.M dated 07.06.1988 and 10.09.1993 and while the claim for regularization of the employees was not accepted, directions were given for empanelment of these Petitioners and similarly placed individuals and further direction was given to give them preference, as and when the vacancy in the Regular Class IV Category arose.

39. It is not in dispute that as and when the regular vacancy arose, due process was followed and all the Petitioners herein, were appointed on regular basis, as per their qualifications and eligibility.

40. The **sole grievance of the Petitioners** is that they must be given regular appointment from the day when they first joined as daily wager and not from the date of appointment in the regular appointment. This argument is completely fallacious for the simple reason that prior to their regular appointment, they were only working as daily wagers and cannot claim a lien of regularization.

41. It has been rightly argued that in the Writ Petition (C) No. 3274/1996, same relief was claimed, but directions for only empanelment were given. There is no service jurisprudence, which says that the regularization of an employee can be done from a prior date, on which he may have been working on daily wages.



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42. The Petitioners have been granted the service benefits in accordance with the Rules and Law from the date of their regular appointment. The claim made by the Petitioners is without basis and any merit, the present Writ Petition is **dismissed**. Pending Applications are disposed of, accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

APRIL 16, 2026/R