



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 7603/2023

Giriraj Prasad Sharma

----Petitioner

Versus

State Of Rajasthan

----Respondent

With Connected matters¹



For Petitioner(s) :

Mr. Sushil Bishnoi, Mr. Gopal Lal Acharya, Mr. Moti Singh, Mr. Mukesh Vyas, Mr. P.R. Mehta, Mr. Pradeep Shah, Mr. J.S. Bhaleria, Mr. Ashvini Swami, Mr. K.S.S. Charan, Mr. D.S. Sodha, Mr. Vinay Jain, Mr. A.A. Sharma, Mr. Sukesh Bhati, Mr. Deelip Kawadia, Mr. Ravindra Singh, Mr. Harish Purohit, Mr. Vishal Thakur, Mr. S.K. Malik, Mr. Ramesh Kumar Prajapat, Mr. V.R. Choudhary, Mr. P.D. Bohra, Mr. Rakesh Arora, Mr. S.K. Verma, Mr. Nikhil Jain, Mr. Vikram Singh Bhawla, Mr. Sunil Bhandari, Mr. Amit Mehta, Mr. M.C. Gupta, Mr. Sanjeet Purohit, Mr. Khet Singh Rajpurohit, Mr. Ravindra Paliwal, Mr. Sunil Joshi, Mr. RS Saluja, Mr. Sukesh Bhati, Mr. Abhishek Bohra, Mr. Sukhdev Patel, Mr. VR Choudhary, Mr. Harishit Bhurani, Mr. CVS Shekhawat, Mr. Darshan Jain, Mr. Tanwar Singh Rathore, Mr. Kailash Jangid, Mr. CP Trivedi, Mr. MS Godara, Mr. Pawan Singh, Mr. BL Kudan, Mr. Pramendra Bohra, Mr. Shreyash Ramdev, Mr. Gopal Acharya, Mr. Surendra Thanvi, Ms. Varsha Bissa, Ms. Nidhi Singhvi, Ms. Twinkle Purohit, Ms. Tanya Mehta, and Mr. Lucky Rajpurohit, Mr. Divik Mathur, Mr. Manvendra Singh, Mr. Pramendra Bohra.

For Respondent(s):

Mr. Rajendra Prasad, Advocate General assisted by Mr. A.S. Shekhawat.
Mr. I.R. Choudhary, Addl. Advocate General alongwith Mr. Kuldeep Vaishnav.
Mr. Pawan Bharti.
Mr. B.L. Bhati, Addl. Advocate General assisted by Mr. Deepak Chandak, AAAG.
Dr. Praveen Khandelwal – AAG
Ms. Yashvi Khandelwal
Ms. Neelam Sharma, AGC.
Ms. Rakhi Choudhary, Dy. G.C.
Mr. Deepak Vaishnav
Mr. N.K. Mehta, Dy. G.C.
Mr. Vaibhav Bang

¹ As tabulated in para 2.1 of instant judgment.



Amicus Curiae:

Mr. Rajvendra Saraswat &
Mr. Manvendra Singh assisted by
Ms. Saumya Choudhary
Ms. Ananya Rathore



HON'BLE MR. JUSTICE ARUN MONGA

Judgment

Reserved on 19.02.2025 (Some petitions Reserved on 20.02.2025 and 26.03.2025)

Pronounced on 29/04/2025

1. Caught in a state of prolonged uncertainty of their employment, petitioners before this Court are seeking protection of their rights. Despite performing duties equivalent to those of their regularly appointed counterparts, they continue to be denied equality. Trapped between the aspiration for regularization of job and working without any break for years together (10-30 years) on inadequate pay, they are neither in a position to resign for alternative employment nor to endure continued exploitation. They thus yearn for pay parity with their counterparts, who perform similar tasks. Primary reason of discrimination and financial hardship is the irregular mode of their recruitment, which, though not illegal, has led to their current plight. The existential insecurity they face is aptly captured by the timeless lyrics of the song titled "Blowing in the wind"² i.e.

*How many roads must a man walk down before you call him a man?
How many seas must a white dove sail before she sleeps in the sand?
The answer, my friend, is blowing in the wind.*

These lines mirror the despair, frustration, and helplessness that permeate the lives of the petitioners. The current situation—

² Bob Dylan



whether arising from administrative apathy, oversight, or exigency — is a crisis of the State's own making.

1.1. The specter of the Uma Devi judgment continues to haunt, as the State grapples with it. Whether due to circumstance, chance, or oversight, the stark reality remains that a solution must be found to alleviate the hardships and harsh treatment meted out to the petitioners, who are not blameworthy. The Uma Devi judgment has become a double-edged weapon, as both sides rely upon the same. While the respondents (employer) are invoking it as a shield to defend their actions, the petitioners (employees) are wielding it as a sword, arguing that the respondents are distorting the true spirit, intent, and purpose of the Supreme Court's ruling. The unsavoury situation is self created by the State, whether unwittingly or fortuitously or by circumstances beyond control, as the case may be. The imperatives of constitutional morality warrant that appointments irregular in form but not in substance—backed by sanctioned posts and years of continuous service—must not anymore remain at the mercy of procedural rigidity. For a solution to remedy the hardships treatment meted out to the petitioners for no fault of theirs, steps are required to restore the rule of law, ensure equity, and vindicate the legitimate expectations of those who have served the State in good faith.

1.2. The pivotal question that arises is whether this Court, within its writ jurisdiction, can direct the State to frame appropriate criteria for assessing eligibility, and thereafter regularize the



petitioners' services without compelling them to undergo a fresh selection process?

1.3. In exercising its constitutional duty to uphold fairness in public employment and to remedy the administrative injustice, this Court most certainly cannot remain a passive observer. Guided by binding judicial precedents, service jurisprudence, and constitutional morality, let us delve into the specifics in the succeeding part here in after.

FACTS:

2. Petitioners were appointed/employed on various posts, many of them as far back as in the year 1979 (SBCWP No.14903/2027). They are continuing in service since then. However, their services have not been regularized. Hence they seek directions to the respondents to regularize their services and grant consequential benefits.

2.1. Following tables show their initial dates of appointments and respective posts:-

Table-(1) - Pertaining to CLASS-IV Employees (reserved on 19.02.2025)

Sr. No.	CWP No.	Petitioners names	Appointed on	Post	Office/Department
1.	7603/2023	Giriraj Prasad Sharma	25.01.1991	Class-IV	Primary Health Centre, Mal (Dungarpur)
2.	3686/2010	Smt. Bhagwanti	05.07.1995	Sweeper	Ashram Hostel, Munjava, Chittorgarh
3.	27/2007	Madhu Ram	11.11.2002	Cook	Social Welfare Department, Jaisalmer
4.	7801/2014	Hari Singh Shekhawat	01.02.1994	Class-IV	Govt. Upper Primary School, Kalwal
5.	1756/2015	Alpesh Patel & 9 others	Feb, 2002 onwards	Cook cum Helper	Primary, Upper Primary & Secondary Schools
6.	3770/2015	Gyan Chand & 12 others	1991 to 1995	Sweeper	Various Panchayat Samities



7.	7908/2015	Kamla Devi & Anr.	1991	Sweeper	Panchayat Samities
8.	1710/2016	Swaroop Singh	13.08.1987	Class-IV	Panchayat Samiti, Mandalgarh
9.	2694/2016	Ram Prasad Vaishnav	01.02.1981	Class-IV (Peon)	Govt. Primary School, Shahpura, Bhilwara
10.	5411/2016	Chain Singh	03.08.1987	Peon	Gram Panchayat, Osian
11.	8627/2016	Gayatri Damor	2004	Cook	Govt. Scheduled Caste Girls Hostel, Bichhiwara
12.	8628/2016	Smt. Huraj	1999	Cook	Govt. Scheduled Caste Girls Hostel, Bichhiwara
13.	8831/2016	Smt. Ramila	2006	Cook	Govt. Scheduled Caste Girls Hostel, Bichhiwara
14.	8883/2016	Smt. Basanti alias Diksha	2006	Cook	Govt. Scheduled Caste Girls Hostel, Bichhiwara
15.	2779/2017	Shankar Lal Bhati	13.06.1990	Ward Boy	Medical & Health Department, Pali
16.	12711/2017	Dal Singh	2008	Class-IV	Department of Primary Education
17.	14903/2017	Jagdish Chandra Tiwari	13.10.1979	Class-IV	Elementary Education
18.	15468/2017	Sharda	14.01.1991	Safai Karamchari	Panchayati Raj Department
19.	15469/2017	Kalu Ram	14.01.1991	Safai Karamchari	Panchayati Raj Department
20.	15472/2017	Sayar Mal	14.01.1991	Safai Karamchari	Panchayati Raj Department
21.	15474/2017	Kamla	14.01.1991	Safai Karamchari	Panchayati Raj Department
22.	15475/2017	Badami Devi	14.01.1991	Safai Karamchari	Panchayati Raj Department
23.	15476/2017	Vala Ram	14.01.1991	Safai Karamchari	Panchayati Raj Department
24.	15480/2017	Sukhi Devi	14.01.1991	Safai Karamchari	Panchayati Raj Department
25.	15492/2017	Leela	14.01.1991	Safai Karamchari	Panchayati Raj Department
26.	15498/2017	Vimla	14.01.1991	Safai Karamchari	Panchayati Raj Department
27.	15602/2017	Chhagna Ram & 3 others	1995 & 1998	Safai Karamchari	Panchayati Raj Department
28.	15709/2017	Mangi Lal Meena	04.07.2008	Class-IV	Panchayati Raj Department
29.	15788/2017	Anopa Ram	07.10.2006	Class-IV	Panchayati Raj Department
30.	15789/2017	Insaf Shah	04.07.2008	Class-IV	Panchayati Raj Department
31.	15790/2017	Deva Ram Kumhar	09.10.2006	Class-IV	Panchayati Raj Department
32.	15791/2017	Amra Ram	17.10.2007	Class-IV	Panchayati Raj Department



33.	15813/2017	Sanjay Kumar	14.01.1991	Safai Karamchari	Panchayati Raj Department
34.	15814/2017	Hulasi	14.01.1991	Safai Karamchari	Panchayati Raj Department
35.	15815/2017	Remati	14.01.1991	Safai Karamchari	Panchayati Raj Department
36.	15816/2017	Kashi Ram	14.01.1991	Safai Karamchari	Panchayati Raj Department
37.	15817/2017	Kalu Ram	14.01.1991	Safai Karamchari	Panchayati Raj Department
38.	16407/2017	Sajid Hussain	01.03.2006	Computer Operator cum LDC	Ayurved University, Karwar, Jodhpur
39.	2191/2018	Pyari Devi	14.01.1991	Safai Karamchari	Panchayati Raj Department
40.	5049/2018	Hakim Mohammad Pathan	08.12.1986	LDC	Panchayati Raj Department
41.	7898/2018	Rajendra Kumar Girasiya	01.07.2002	Shiksha Karmi	Primary School, Zhamela, Pali
42.	986/2020	Dinesh Kumar Meena	09.05.2011	Sahayak Karamchari	Panchayat Samiti, Pali
43.	3829/2023	Babu Lal	April, 1995	Peon	Panchayat Samiti, Marwar Junction, Pali
44.	4783/2023	Imran & 4 others	09.01.2014	Attendant (Helper)	Department of Medical & Health
45.	14882/2023	Hari Lal Bagrecha	01.11.1988	Sweeper	Panchayat Samiti, Bali, Pali
46.	9248/2024	Bhanwar Lal & 3 others	15.05.2013	Security Guard	Atal Sewa Kendra, Panchayat Samiti, Rani Pali

Table-(2) - Pertaining to CLASS-III Employees (reserved on 19.02.2025)

Sr. No.	CWP No.	Petitioners names	Appointed on	Post	Office/Department
1.	6915/2010	Smt. Prem Lata	04.09.1996	Teacher Gr.-III	Elementary Education, Udaipur
2.	5080/2012	Smt. Manju Pancholi	07.07.2000	Multi Purpose Worker (MPW) (Female)	Medical & Health Department
3.	7206/2014	Jeeval Kumar & 4 Ors.	13.05.2003, 19.09.2003, 06.10.2003	ANM/Health Workers (Female)	Medical & Health Department
4.	8576/2014	Raja Ram Sharma	22.02.1991	LDC	Sainik School, Chittorgarh
5.	3409/2015	Gopal Kalla & 5 Ors.	10.12.1997, 16.05.1996, 10.12.1997, 10.12.1997, 15.09.1995 & 10.12.1997	Jr. E.N.	Sarwa Siksha Abhiyan



6.	145/2016	Ravi Shankar Bhabia & 3 Ors.	08.02.2002, 10.07.2003	Senior Technician & Computer Operator	Govt. Engineering College, Bikaner
7.	2070/2016	Chhagan Singh Rawat	14.01.1997	Teacher Gr.-III	Zila Parishad, Bhilwara
8.	2071/2016	Smt. Indra Jat	22.03.1999	Teacher Gr.-III	Zila Parishad, Bhilwara
9.	2072/2016	Smt. Lalita Choudhary	24.09.2001	Teacher Gr.-III	Zila Parishad, Bhilwara
10.	2073/2016	Karuna	03.07.2002	Teacher Gr.-III	Zila Parishad, Bhilwara
11.	2077/2016	Ridhakaran Jat	06.03.1997	Teacher Gr.-III	Zila Parishad, Bhilwara
12.	9647/2016	Smt. Rekha Bunkar Salvi	31.05.2001	Para Teacher	Elementary Education, Udaipur
13.	14069/2016	Rita Rawal	01.05.1999	Shiksha Sahyogi	Panchayat Samiti Sagwara, Dungarpur
14.	977/2017	Yogesh Meena & Anr.	October, 2010	Junior Instructor	ITI, Jodhpur
15.	3998/2017	Devkinandan Purohit	01.01.2001	Para Teacher	Elementary Education, Ganganagar
16.	15467/2017	Pappu Ram & 30 Ors	01.07.2004	Pump Driver	PHED, Jodhpur
17.	16768/2017	Mrs. Chanda Jagetiya	08.07.2002	Shiksha Sahayogi	Elementary Education, Chittorgarh
18.	2086/2018	Mangla Ram Rathore & 10 Ors.	1990 to 1998	Shiksha Karmi & Senior Shiksha Karmi Teachers	Elementary Education, Banswara
19.	3538/2018	Ashok Kumar & 2 Ors.	02.01.2012 27.01.1997	Pump Driver	Panchayat Samiti
20.	5661/2018	Smt. Neelam Rastogi	18.09.1998	Teacher	Panchayat Samiti, Ladnu, District Nagaur
21.	15478/2018	Iqbal Khan	03.10.2007	Lab Technician	Medical & Health
22.	922/2020	Yogesh Ladha (on behalf of deceased mother)	30.06.1997	Teacher Gr.-III	Primary Education
23.	2433/2020	Mangal Khan	20.03.2001	Shiksha Sahyogi (Madarsa)	Panchayati Ram Department
24.	3656/2021	Hitesh Chandra Upadhyay	05.05.2010	Jr. Technical Assistant	Panchayat Samiti, Banswara
25.	6224/2021	Savita Pandore	03.06.2010	ANM	CMHO, Pratapgarh
26.	12730/2021	Tejpal Singh	27.07.2007	Nurse Gr.-II GNM	Medical & Health, Seoganj, Sirohi
27.	13483/2021	Pushpa Joshi	23.07.1993	Precheta	Department of Women and Child Development, Jaipur
28.	13698/2021	Kusum Upadhyay	23.07.1993	Precheta	Department of Women and Child



					Development, Jaipur
29.	17232/2021	Manish Seervi & Anr.	01.10.2007	Public Health Nurse / Nurse Gr.-II	Medical & Health Department, Pali
30.	3005/2022	Babu Lal Prajapat & 3 Ors.	2010 & 2011	Instructor	ITI, Jodhpur
31.	5614/2022	Ashu Ram & 3 Ors.	2001, 2002 & 2010	Pump Driver/ Operator	PHED, Nagaur
32.	11937/2022	Nagendra Shaktawat & 4 Ors.	2014 & 2016	Assistant Manager	Gram Sewa Sehakari Samiti,
33.	11945/2022	Surya Prakash	16.09.2013	Assistant Manager	Registrar, Cooperative Societies
34.	11109/2023	Munni Kumari Goswami	14.09.2005	ANM	Medical & Health Department, Udaipur
35.	14142/2023	Smt. Sonu Balai & Anr.	04.04.2013	Computer Operator	Medical & Health Department, Bhilwara
36.	14244/2023	Minakshi Tripathi & 2 Ors.	15.09.2012	Computer Operator cum Machine Man	Medical & Health Department, Bhilwara
37.	14838/2023	Prashant Mahatma Jain	28.11.2009	Nurse Gr.-II	Medical & Health Department, Udaipur

Table-(3) - Pertaining to CLASS-IV Employees (reserved on 20.02.2025)

Sr. No.	CWP No.	Petitioners names	Appointed on	Post	Office/Department
1	6604/2016	Hawji Meena	01.01.1996	Hand Pump Mistry	Panchayat Samiti, Arnod, Distt. Chittorgarh
2	6606/2016	Bhagwati lal Meena	01.01.1996	Hand Pump Mistry	Panchayat Samiti, Arnod, Distt. Chittorgarh
3	6607/2016	Balu Ram Meena	01.01.1996	Hand Pump Mistry	Panchayat Samiti, Arnod, Distt. Chittorgarh
4	6608/2016	Mahendra Singh	01.01.1996	Hand Pump Mistry	Panchayat Samiti, Arnod, Distt. Chittorgarh
5	6610/2016	Nand Lal Meena	01.01.1996	Hand Pump Mistry	Panchayat Samiti, Arnod, Distt. Chittorgarh
6	6611/2016	Snati Lal Meena	01.01.1996	Hand Pump Mistry	Panchayat Samiti, Arnod, Distt. Chittorgarh
7	6612/2016	Mohan Lal Meena	01.01.1996	Hand Pump Mistry	Panchayat Samiti, Arnod, Distt. Chittorgarh
8	6613/2016	Ram Chandra Meena	01.01.1996	Hand Pump Mistry	Panchayat Samiti, Arnod, Distt. Chittorgarh
9	6615/2016	Lal Nahadur Meena	01.01.1996	Hand Pump Mistry	Panchayat Samiti, Arnod, Distt. Chittorgarh
10	9929/2017	Hukum Lal	21.09.1978	Cycle Rakshak	Sent. Mathuradas



		Vyas			Binana Govt. College, Nathdwara
11	7216/2022	Vijay Shankar Vyas	03.03.1989	Labour/Daily Wages Employee	Principal, Sardul Sports School, Gikaner

Table-(4) - Pertaining to CLASS-IV Employees (reserved on 26.03.2025)

Sr. No.	CWP No.	Petitioners names	Appointed on	Post	Office/Department
1	18708/2024	Shri Niwas Samdani & Anr.	Oct., 1995 & Nov., 1996	Class-IV	Zila Parishad, Chittorgarh

Table-(5) - Pertaining to CLASS-III Employees (reserved on 26.03.2025)

Sr. No.	CWP No.	Petitioners names	Appointed on	Post	Office/Department
1.	4671/2023	Prakash Suthar & 2 others	2007 & 2015	Assistant Employee & Block Coordinator	Panchayati Raj Department, Udaipur
2.	4366/2023	Dinesh Kumar	29.11.2007	Block Coordinator	Panchayat Samiti, Badgaon, Udaipur
3	4391/2023	Chetanya Prakash Sharma	17.10.2007	Block Coordinator	Panchayati Samiti, Girwa, Udaipur

3. In the course of earlier hearings, orders dated 16.05.2024 and 27.05.2024 were passed by this Bench. Being apposite, same are being reproduced as under:-

“Dt. 16.05.2024

Looking at the larger ramifications involved in the case, since almost all the departments of the State Government are hiring contractual employees who, after rendering their continuous services of as long as 15 to 20 years, are seeking regularization, it is deemed more appropriate that the Chief Secretary of the State Government be impleaded as a respondent herein. It is so ordered.

The Registry is directed to carry out the necessary corrections to add the name of the State of Rajasthan, i.e., respondent No. 1 (a), who shall thus be represented through the Chief Secretary along with the Administrative Secretary of the department as respondent no. 1(b).

The Chief Secretary to file a comprehensive affidavit regarding the State Government's stand on the regularization policy, which is expected to be applied in the State.



Learned Advocate General is requested to render his worthy assistance on behalf of the state. If it is not possible for him to appear in person before this Court, since he is seated at Jaipur, he may join the proceedings through video conferencing. Mr. Anirudh Singh appears on behalf of the learned Advocate General and states that he has been informed by his office that the Advocate General shall be available in Jodhpur on 27.05.2024. In the premise, at his request, list on 27.05.2024.”

Dt. 27.05.2024

“1. Matter was parheard on 16.05.2024 and on resumed hearing today, learned Advocate General has also rendered his able assistance. He fairly states that given the nature of controversy, a wholesome decision has to be taken by formulating the policy parameters governing the individual claims of the petitioners qua the regularization of their services.

2. He would further submit that taking a humanitarian view qua the Class IV employees, who have rendered services for more than 10-20 years, is one aspect of the matter, but under the garb thereof to promote exploitation through backdoor entry and / or recruitment of those candidates based on sheer favouritism cannot be encouraged as has also been laid down by Supreme Court in the case of State of Karnataka Vs. Uma Devi (3), 2006(4) SCC 1.

3. He would suggest that a short accommodation be granted to enable him to seek proper instructions from the competent authority as well as enabling the learned Chief Secretary to file a comprehensive affidavit as was observed by this Court in the previous order dated 16.05.2024.

4. Learned amicus Shri Rajvendra Saraswat has handed over a compendium of certain legislative enactments which have been brought about post Uma Devi Judgment in States of Andhra Pradesh, Kerala, Haryana, Punjab & Mizoram copy of which have been handed over to learned Advocate General who is requested to pass on the same to the Chief Secretary and it is expected of him to look into the same before filing the comprehensive affidavit.

5. Post it on 16.07.2024.

6. In the meanwhile, Registrar Judicial and O.S.D. (Computerization) to ensure that all the cases of Class IV employee who have filed writ petitions seeking regularization either on the ground that their case is not being considered or their representations have been pending before the State authorities be clubbed together. Only for the purpose of compliance of clubbing, be listed on 30.05.2024. Otherwise, to come up for arguments on 16.07.2024 i.e. date already noted hereinabove. Those of the matters which do not pertain to Class IV employees, be de-tagged from the present bunch.

7. Copy of the instant order be conveyed under the signatures of Court Master.”



3.1. Pursuant to aforesaid orders, the Chief Secretary to Rajasthan Government filed an affidavit dated 21.08.2024 regarding the State Government's stand on the regularization policy expected to be applied in the State, qua the Class-IV employees stating therein as under:-

“3. That it is humbly submitted that in compliance of the orders passed by the Hon'ble Court, a meeting under the Chairmanship of humble deponent was convened on 04.07.2024, which was also attended by the learned Advocate General apart from other Officers of the State. In the meeting detailed deliberations were made on the issue.

4. That it was considered that in pursuance of judgment passed in Uma Devi's case, the State Government had already issued notifications in the year 2009 amending various Service Rules for one time regularization of employees, keeping in account the conditions to be specified as per the directions of the Hon'ble Supreme Court; accordingly the actions for regularization of services have been taken from time to time by various departments. It is submitted that vide circular dated 29.04.2011, whereby the circulars issued from the year 2003 onwards up to 19.06.2009 were withdrawn, it was directed that appointments against the posts created on regular basis, shall be made as per relevant service rules and that no contractual appointments will be made.

5. That again to cater the need rising in the State Government Projects/Schemes, Central Government Projects/Schemes and External Aided Projects, the State Government vide circular dated 27.06.2014 allowed to fill the posts under such projects on contract basis. It was further considered that Rules, namely Rajasthan Contractual Hiring to Civil Posts Rules, 2022 (hereinafter referred to as the Rules of 2022), have already been enacted in 2022, which came into force on 11.01.2022. They apply with regard to the posts created by administrative departments with due concurrence of Finance Department, for implementation of any Project or Scheme, to persons appointed on such posts in accordance with the provisions of these rules or persons working on the posts so created on contract basis on the date of commencement of these rules, provided his/her selection was made after inviting applications through public advertisement. After the Rules of 2022 coming into force, the State Government withdrew the circular dated 27.06.2014, vide circular dated 01.04.2022.

6. That further vide notification dated 26.07.2023, amendment has been made in the Rules of 2022 whereby benefit of services prior to commencement of the Rules of 2022 has been given. Thus, the policy in so far as it relates to compliance of the Hon'ble Supreme Court's directions issued in Uma Devi's case, 2006 is concerned, the same is already in place and further rules have also been enacted in the year 2022. Therefore, the dispute as to whether they are covered





by the Rules amended in 2009 or under the Rules of 2022 are concerned, they will have to be decided in individual cases.

7. That the Hon'ble Supreme Court in Uma Devi's case, has clearly directed that the regularization will be only a one time measure and regularization as a source of employment has been held to be invalid. However, in specific circumstances, the said case has been explained by the Hon'ble Supreme Court which may not necessarily apply to the conditions prevalent in the State.

8. That the contents of various petitions were analyzed and it has been found that many of them belong to part time employments in village Panchayats, in Janta Jal Yojna, in MNREGS or through placement agencies, and as such they do not qualify for any kind of regularization. In many of the cases, employment itself has been by incompetent authorities. In many others, the dispute is on aspects other than regularization. In the aforesaid background, after deliberations, to assess the actual problem of contractual employees employed by the Government Departments and fulfilling the necessary conditions on the basis of which regularization can be sought, it was decided that information from all the Departments can be sought before assessing as to whether any fresh policy is required. It would not be out of place to mention here that way back in the year 2014, circulars/orders were issued debarring the Departments from employing persons on contract basis.

9. That in response to the letters issued to different departments calling information as per decision taken in the meeting dated 04.07.2024, information in prescribed proforma was received from different departments. On the basis of such information, a chart has been prepared, which is enclosed herewith and marked as Annexure-RA-1.

10. That on analysis of information received from various departments, it would be clear that a fresh policy for dealing with the issue of regularization is not necessary. The individual cases can be examined as per the notifications and rules already in place. Further, from the facts mentioned above, it is also clear that the cases of the petitioners detailing out different facts and situations, would be required to be dealt with independently as individual cases."

(emphasis supplied)

3.2. Along with aforesaid affidavit a chart Annexure RA-1 has been appended showing department-wise status of regularization cases. Learned Advocate General also urged that the said affidavit be treated as the State Government's general stand apropos all the writ petitions as tabulated hereinabove.

3.3. Pertinently, when the aforesaid orders dated 16.05.2024 followed by 27.05.2024 were passed, the same were confined only



to Class-IV employees, but it later transpired that many of the cases in the bunch, as more specifically mentioned in the tables (supra), also pertain to Class-III employees.

4. On a Court query to learned Advocate General as to whether any separate policy and/or Rules have been framed for carrying out the regularization process of Class-III employees, it transpired that the procedure and the policy adopted and being implemented across board is same as meant for Class-IV employees in terms of the stand taken in the affidavit *ibid*. Thus the parameters governing confirmation of employment after regularization qua Class-III & IV employees remain the same.

5. In the aforesaid backdrop, I have heard arguments of the learned counsel for the parties which are more or less on the same lines as the grounds taken in the pleadings and perused the case files and shall now proceed to deal with the merits and demerits thereof and render my opinion based on the discussion and reasoning contained hereafter.

APPLICABLE LAW, DISCUSSION & ANALYSIS:

6. At the outset, as regards the posts created and persons hired for the limited period Projects/Schemes and External Aided Projects, obviously the need and justification for hiring on contractual basis is valid and legal. Such engagement cannot be said to be for any perennial nature. Their engagement is governed by the provisions of Rajasthan Contractual Hiring of Civil Posts Rules, 2022. It follows that no vested right for regularization of services would accrue to those whose services were/are hired on contract basis for the limited periods under the State Government



Projects/Schemes and External Aided Project. As such, any kind of regularisation qua them shall be governed by Rules of 2022, *ibid*.

7. For the work of perennial nature, the State Government, its functionaries and instrumentalities have to employ the required persons. We are not concerned here with the appointments which were/are regular and legal and were initially made by following the prescribed recruitment Rules/procedure through competitive process. The case herein is about regularization of services of those whose initial appointments were either irregular, though not illegal, or were wholly illegal.

8. Let us first traverse through the evolution resulted by judicial intervention from time to time in expounding the concept of right to regularization by sheer longevity of service rendered by those who are hired, so to speak, through back door.

8.1. In *Secretary, State of Karnataka & Ors. Vs. Uma Devi*³, a Constitution Bench of the Apex Court observed/held, inter alia, as under: -

“15.....If the appointment itself is in infraction of the rules or if it is in violation of the provisions of the Constitution illegality cannot be regularized. Ratification or regularization is possible of an act which is within the power and province of the authority but there has been some non-compliance with procedure or manner which does not go to the root of the appointment. Regularization cannot be said to be a mode of recruitment. To accede to such a proposition would be to introduce a new head of appointment in defiance of rules or it may have the effect of setting at naught the rules.

16. In *B.N. Nagarajan & Ors. Vs. State of Karnataka* : (1979) 4 SCC 507] this court clearly held that the words "regular" or "regularization" do not connote permanence and cannot be construed so as to convey an idea of the nature of tenure of appointments. They are terms calculated to condone any procedural irregularities and are meant to cure only such defects as are attributable to methodology followed in making the appointments. This court emphasized that when rules framed under Article 309 of the Constitution are in force, no regularization is permissible in exercise

³(2006) 4 SCC 01





of the executive powers of the Government under Article 162 of the Constitution in contravention of the rules. These decisions and the principles recognized therein have not been dissented to by this Court and on principle, we see no reason not to accept the proposition as enunciated in the above decisions. We have, therefore, to keep this distinction in mind and proceed on the basis that only something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularized and that it alone can be regularized and granting permanence of employment is a totally different concept and cannot be equated with regularization.

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43. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. The High Courts acting under Article 226 of the Constitution, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because an employee had continued under cover of an order of the Court, which we have described as 'litigious employment' in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates.

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53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V. Narayanappa* : [AIR 1967 SC 1071], *R.N. Nanjundappa* : [(1972) 1 SCC 409] and *B.N. Nagarjan* (*supra*), 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 courts or of tribunals. The question of regularization 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 regularize 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 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 months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.

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55. *In cases relating to service in the commercial taxes department, the High Court has directed that those engaged on daily wages, be paid wages equal to the salary and allowances that are being paid to the regular employees of their cadre in government service, with effect from the dates from which they were respectively appointed. The objection taken was to the direction for payment from the dates of engagement. We find that the High Court had clearly gone wrong in directing that these employees be paid salary equal to the salary and allowances that are being paid to the regular employees of their cadre in government service, with effect from the dates from which they were respectively engaged or appointed. It was not open to the High Court to impose such an obligation on the State when the very question before the High Court in the case was whether these employees were entitled to have equal pay for equal work so called and were entitled to any other benefit. They had also been engaged in the teeth of directions not to do so. We are, therefore, of the view that, at best, the Division Bench of the High Court should have directed that wages equal to the salary that is being paid to regular employees be paid to these daily wage employees with effect from the date of its judgment. Hence, that part of the direction of the Division Bench is modified and it is directed that these daily wage earners be paid wages equal to the salary at the lowest grade of employees of their cadre in the Commercial Taxes Department in government service, from the date of the judgment of the Division Bench of the High Court. Since, they are only daily wage earners, there would be no question of other allowances being paid to them. In view of our conclusion, that Courts are not expected to issue directions for making such persons permanent in service, we set aside that part of the direction of the High Court directing the Government to consider their cases for regularization. We also notice that the High Court has not adverted to the aspect as to whether it was regularization or it was giving permanency that was being directed by the High Court. In such a situation, the direction in that regard will stand deleted and the appeals filed by the State would stand allowed to that extent. If sanctioned posts are vacant (they are said to be vacant) the State will take immediate steps for filling those posts by a regular process of selection. But when regular recruitment is undertaken, the respondents in CAs Nos. 3595-612 and those in the Commercial Taxes Department similarly situated, will be allowed to*





compete, waiving the age restriction imposed for the recruitment and giving some weightage for their having been engaged for work in the Department for a significant period of time. That would be the extent of the exercise of power by this Court under Article 142 of the Constitution to do justice to them.”

8.2. In **Narendra Kumar Tiwari v.State of Jharkhand**

& Ors.⁴, the Apex Court observed/directed as under:-

“7. The purpose and intent of the decision in *Umadevi (3)* [(2006) 4 SCC 1] was therefore two-fold, namely, to prevent irregular or illegal appointments in the future and secondly, to confer a benefit on those who had been irregularly appointed in the past. The fact that the State of Jharkhand continued with the irregular appointments for almost a decade after the decision in *Umadevi (3)* is a clear indication that it believes that it was all right to continue with irregular appointments, and whenever required, terminate the services of the irregularly appointed employees on the ground that they were irregularly appointed. This is nothing but a form of exploitation of the employees by not giving them the benefits of regularisation and by placing the sword of Damocles over their head. This is precisely what *Umadevi (3)* and *Kesari* [(2010) 9 SCC 247] sought to avoid.

8. If a strict and literal interpretation, forgetting the spirit of the decision of the Constitution Bench in *Umadevi (3)*, is to be taken into consideration then no irregularly appointed employee of the State of Jharkhand could ever be regularised since that State came into existence only on 15-11-2000 and the cut-off date was fixed as 10-04-2006. In other words, in this manner the pernicious practice of indefinitely continuing irregularly appointed employees would be perpetuated contrary to the intent of the Constitution Bench.

9. The High Court as well as the State of Jharkhand ought to have considered the entire issue in a contextual perspective and not only from the point of view of the interest of the State, financial or otherwise – the interest of the employees is also required to be kept in mind. What has eventually been achieved by the State of Jharkhand is to short circuit the process of regular appointments and instead make appointments on an irregular basis. This is hardly good governance.

10. Under the circumstances, we are of the view that the Regularisation Rules must be given a pragmatic interpretation and the appellants, if they have completed 10 years of service on the date of promulgation of the Regularisation Rules, ought to be given the benefit of the service rendered by them. If they have completed 10 years of service they should be regularised unless there is some valid objection to their regularisation like misconduct etc.

11. The impugned judgment and order [*Anil Kumar Sinha v. State of Jharkhand* : 2016 SCC OnLine Jhar 2904] passed by the High Court is set aside in view of our conclusions. The State should take a

⁴ (2018) 8 SCC 238





decision within four months from today on regularisation of the status of the appellants. The appeals are accordingly disposed of.”

8.3. In **Jaggo v. Union of India & Others**⁵ decided on 20.12.2024, the Apex Court observed/directed as under :-

“5. Initially, the appellants sought regularization of their services by filing Original Application No.2211/2015 before the Tribunal. They contended that over the years, their roles and responsibilities had evolved beyond the nominal labels of “part-time” or “contractual” and that they were performing ongoing and core functions integral to the CWC’s operations. They relied on applicable government instructions and the principle that long-serving employees, engaged against work of a perennial nature, deserve fair consideration for regularization, provided their appointments were not illegal or clandestine. The Tribunal, by its order dated 17.04.2018, dismissed the appellants’ plea. It concluded that the appellants were not engaged on what it considered “regular vacancies,” that they had not completed what it termed as sufficient “full-time” service (such as meeting a 240-days per year criterion), and that their case did not attract the principles enabling regularization. Within ten days after the dismissal of the original application, on 17.04.2018, the services of all these individuals were abruptly terminated on 27.10.2018 by the respondent authorities without issuance of any show-cause notice.

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10. Having given careful consideration to the submissions advanced and the material on record, we find that the appellants’ long and uninterrupted service, for periods extending well beyond ten years, cannot be brushed aside merely by labelling their initial appointments as part-time or contractual. The essence of their employment must be considered in the light of their sustained contribution, the integral nature of their work, and the fact that no evidence suggests their entry was through any illegal or surreptitious route.

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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 judgement of this

⁵2024 SCC Online SC 3826





Court in Vinod Kumar Vs. 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. The relevant paras of this judgement have been reproduced below:

“6. The application of the judgment in Uma Devi (supra) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over a considerable period through continuous service. Their promotion was based on a specific notification for vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in the case of Uma Devi (supra).

7. The judgement in the case Uma Devi (supra) also distinguished between “irregular” and “illegal” appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case...”

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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.

28. In view of the above discussion and findings, the appeals are allowed. The impugned orders passed by the High Court and the Tribunal are set aside and the original application is allowed to the following extent:

- i. The termination orders dated 27.10.2018 are quashed;
- ii. The appellants shall be taken back on duty forthwith and their services regularised forthwith. However, the appellants shall not be entitled to any pecuniary benefits/back wages for the period they have not worked for but would be entitled to continuity of services for the said period and the same would be counted for their post-retiral benefits.”

8.4. In ***Shripal & Another v. Nagar Nigam, Ghaziabad***⁶, the Apex Court observed/directed as under:-

“14. The Respondent Employer places reliance on Umadevi (supra) 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.

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IV. The Respondent Employer is directed to initiate a fair and transparent process for regularizing the Appellant Workmen within six months from the date of reinstatement, duly considering the fact that they have performed perennial municipal duties akin to permanent posts. In assessing regularization, the Employer shall not impose educational or procedural criteria retroactively if such requirements were

⁶2025 SCC Online SC 221



never applied to the Appellant Workmen or to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the Respondent Employer shall expedite all necessary administrative processes to ensure these longtime employees are not indefinitely retained on daily wages contrary to statutory and equitable norms.”

8.5. In **Union of India v. K. Velajagan & Ors.**⁷, the Apex Court observed/directed as under:-

“2. What appears on a bare reading of the impugned judgment is that the respondents 1 to 3 were appointed on 20th January, 2005, on hourly basis, as Lecturers in Motilal Nehru Government Polytechnic College, Puducherry in its Mechanical Engineering Department. Such appointment had the approval of the Lieutenant Governor of Puducherry. Claiming regularization from the date of their respective appointments and all consequential benefits flowing from such regularization, the respondents 1 to 3 had moved the Central Administrative Tribunal, Madras Bench by filing an original application.

3. Vide judgment and order dated 03rd April, 2013, the Tribunal allowed the original application considering that the relief of regularization had been extended to other similarly situated lecturers and that the respondents 1 to 3 ought not to be discriminated. It is this order of the Tribunal that the High Court upheld vide the impugned judgment and order.

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10. We, therefore, see no reason to interfere with the impugned judgment and order of the High Court, meaning thereby that the claims of respondents 1 to 3 for regularization are required to be considered in light of the decision given by the Tribunal, since affirmed by the High Court.....”

8.6. In light of the judgments, *ibid*, the question as framed in the opening part of the judgment (para 1.2) is answered by holding that a constitutional court can, no doubt, exercise its writ jurisdiction to direct the State to take necessary steps, such as: establishing recruitment parameters tailored for individuals with over ten years of uninterrupted service; creating a special class or category for these individuals, consistent with Supreme Court rulings in similar cases.

⁷2025 SCC Online SC 837



9. At this stage, it is pertinent to note that in *Uma Devi supra* (decided on 10.04.2006), the Constitution Bench had specifically directed, *inter alia*, that the Union of India, the State Governments and their instrumentalities shall take steps within six months of the date of the judgment (10.04.2006) to regularize, as a one time measure, the services of the irregularly appointed persons, who had worked for ten years or more and were eligible for regularization in terms of the criterion laid down therein.

10. In *Narendra Kumar Tiwari, supra* (decided on 01.08.2018), it was noted the State of Jharkhand was created on 15.11.2000 and the State had issued Resolutions on 18.07.2009 and 19.07.2009 permitting regularization of some employees of the State. Observing that the Regularization Rules must be given a pragmatic interpretation, the Apex Court directed that the appellants, if they had completed 10 years of service on the date of promulgation of the Regularization Rules, ought to be given the benefit of the service rendered by them and; that if they had completed 10 years of service, they should be regularized unless there was some valid objection to their regularization like misconduct etc.

11. At the cost of repetition, it needs to be pointed out that in *Uma Devi supra* the Constitution Bench had specifically directed, *inter alia*, that the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure the services of the irregularly appointed persons who had worked for ten years or more and were eligible for regularization in terms of the specified criterion, for regularization for which the process must be set in motion



within six months of the date of judgment (10.04.2006). In such cases, the Constitution Bench did not lay down any further requirement for adjudging their suitability by any screening committee, presumably because their continuance in service for ten years *per se* showed their suitability.

12. Despite that categorical direction by the Apex Court, it was only on 08.7.2009 that the Government of Rajasthan took the first and initial step by notifying the Rajasthan Various Services (Second Amendment) Rules, 2009 making provisions about regularization of services. Relevant Rule 2 thereof is reproduced for ready reference as below:-

*“2. **Amendment** – After the existing last proviso to rule as mentioned in Column No. 3 against each of the Service Rules as mentioned in Column No. 2 of the Schedule appended herewith, the following new proviso at the next serial number shall be added, namely :-*

“the persons, irregularly appointed on duly sanctioned posts and completed ten years service on 10-04-2006, without intervention of any court or tribunal, and continuously working as such on the date of commencement of these amendment rules, shall be screened by a committee consisting of -

- (a) in case of posts falling within the purview of the Commission :-*
 - (i) Chairman of commission or a member nominated by him;*
 - (ii) Pr. Secretary / Secretary to the Government, Department of Personnel;*
 - (iii) Pr. Secretary/Secretary to the Government, Finance Department or his nominee not below the rank of Deputy Secretariat; and*
 - (iv) Pr. Secretary/Secretary to the Government, of the concerned department;*
- (b) in case of the posts outside the purview of the Commission :-*
 - (i) Pr. Secretary/Secretary to the Government, Department of Personnel;*
 - (ii) Pr. Secretary/Secretary to the Government, Finance Department or his nominee not below the rank of Deputy Secretary;*
 - (iii) Pr. Secretary/Secretary to the Government, of the concerned department;*



provided they were eligible for appointment, as per rules on the date of their initial irregular appointment and vacancy is available at the time of screening. The Appointing Authority shall issue appointment order of the person, who is adjudged suitable by the screening committee and appointment shall be effective from the date of issue of such appointment order.”

The delay in notifying the Rules, *ibid*, upto 08.7.2009 was wholly on the part of the State Government. Yet, the cut off date for counting the required length of 10 years of service was fixed therein retrospectively from 10.04.2006.

12.1. There would be a significant number of persons who completed the ten years' service between 11.04.2006 and 08.07.2009 and who, though irregularly appointed, would have been otherwise eligible for regularization if the cut off date for counting ten years' service was postponed from 10.04.2006 corresponding to the delay in notifying the 2009 Rules. For the default and delay wholly on the part of the respondent State, such persons would be excluded from consideration for regularization and made to suffer.

13. Further, for the regularization of persons whose appointments were irregular but not illegal, and who had completed ten years of service on the cut-off date and were eligible as per the criterion, the Constitution Bench of Supreme Court did not lay down any requirement for adjudging their suitability by any screening committee. Presumably, because their suitability was *per se* evident from their continuance in service for ten years. In my opinion, insisting upon the further rigor and requirement for adjudging their suitability by any screening committee, as per Rule 2 of the Rajasthan Various Services (Second Amendment) Rules, 2009, would be unwarranted, unfair,



and unjust, besides being an overreach of the directions given by the Constitution Bench of Supreme Court.

14. Rule 2 of the Rules *ibid* also provides that the appointing authority shall issue appointment order of the person, who is adjudged suitable by the screening committee and the appointment shall be effective from the date of issue of such appointment order. There would be a number of persons who had completed ten years service on various dates and become eligible for regularization much before the issue of such appointment/regularization orders. For the period intervening the date of their acquiring eligibility for regularization and the date of issue of orders for their regularization, they would be unjustly and unfairly deprived of the benefits of regularization. In my considered view, regularization of their services ought to be given effect from the respective dates of completion of ten years' service when they had become eligible for regularization.

15. It would be seen that after and in light of the Constitution Bench judgment in *Uma Devi supra*, the Apex Court extended the benefit of regularization of services to the persons who were originally engaged on part-time, ad-hoc terms (*Jaggo supra*); those who were appointed on hourly basis (*K.Velajagan supra*); those to whom no formal appointment letters were issued and to the extent the sanctioned vacancies existed or were required, directing the employer to take necessary measures for the purpose (*Shripal supra*).

16. There is another class of employees i.e. whose services were interrupted due to litigation. In ***Bhoop Singh (deceased)***



through his LR v. State of Haryana⁸ (by the Punjab & Haryana High Court), the petitioner was appointed in 1988. His services were terminated in 1993. Under the Labour Court's award, as upheld by the High Court he was re-instated with continuity of service and rejoined duty in 2011. His claim for regularization of services as per Haryana Government's policy was rejected by the employer on the ground that he was not in service on 31.01.2006, which was the applicable cut off date for the purpose. It was held that for all legal purposes, the petitioner had to be considered de jure in service on cut off date i.e. 31.01.2006, even though on that date he was not de facto in service and that he was entitled to the benefit of regularization. Incidentally, the said judgment was also authored by me as Judge of that High Court. Now also, I hold the same view.

16.1. When an employee is reinstated with continuity of service by a court of law, the legal fiction created is that the employee never left service. For, it would else result in a kind of double jeopardy, in as much as, despite being vindicated, the employee would suffer for the fault of his employer. On the other hand, the employee has already undergone the agony of the lis attributable to his employer. Therefore, denial of the benefits accruing to employees who were de jure continuously in service—on a mere technicality that they were not *de facto* present on a cut-off date—is both unjust and contrary to the spirit of Rule of law. To interpret otherwise would render the very principle of *continuity of service* hollow. It would allow the employer to indirectly nullify the effect of a judicial reinstatement by relying on the intervening absence

⁸2021 SCC Online P&H 4672, CWP-19793-2017 (O & M), decided on 20.04.2021





that was caused by its own unlawful action. The *de jure* presence of the employee on the cut-off date must be recognized to ensure the remedial nature of the court's order is respected and the employee is restored to the status they would have held had the illegal termination not occurred. Not adopting this approach also is fraught with the dangerous consequence—where an employer, despite being faulted by the court, can still deny the employee the full range of benefits simply due to the passage of time or delays in litigation, many of which are outside the control of the employee. That would amount to punishing the employee twice over—merely for asserting their legal rights.

16.2. Applying the aforesaid principles by adverting to the bunch in hand, illustrative reference may be had specifically to SBCWP No.6604/2016. My attention has been drawn to an order dated 08.05.2024 passed in ***The State of Raj. & Ors. Vs. Tara Chand***⁹ by Division Bench of this Court vide which the Labour Court award rendered in favour of the petitioners was upheld. Pursuant thereto, petitioners were inducted back in service. However, to contend that the Labour Court award though upheld but the petitioners would not be entitled to continuity of service despite specific directions given in the award and subsequently upheld by this court, would amount to rewriting the award. Particularly, when in similar situations, Division Bench of this Court had an occasion to deal with the same argument as noted in order dated 08.05.2024, *ibid*, which was negated in the following terms:-

“13. The submission of learned State Counsel that since reinstatement of respondent was through judicial intervention, his case could not be considered for regularization, as the period could

⁹ D.B. Spl. Appl. Writ No.973/2023, decided on 08.05.2024





not be included for the purposes of counting 10 years of service, cannot be accepted. It is not a case where on the date of promulgation of the Rules, the respondent was continuing in service on the strength of any interim order. Present is a case where the termination order has been declared illegal and the respondent was reinstated in service. In such a case, the rigour of the observation that the period of service on judicial intervention shall not be counted, would have no application.

14. Therefore, the legal position, which emerges in the present case is that on the date, when the amendments were made in the Rules and the date on which the case of the respondent was considered for screening for the purposes of regularization, he shall be deemed to be in service. Not only that, he shall be deemed to have completed 10 years of service as on 10.04.2006. Consequently, the respondent was entitled to be regularized in service subject to fulfillment of any other criteria prescribed for the purposes of regularization.”

16.3. Therefore, I see no reason why such like other petitioners, as above, should also be not treated in service with the benefit of continuity being accorded to them. Their cases, therefore, have to be dealt with by treating them in continuous service as per the applicable regularization policy.

16.3. Likewise in SBCWP No.9929/2017, the petitioner is somewhat similarly situated in as much as, instead of the Labour Court, it was by virtue of the Division Bench direction issued by this Court in the case of *The State of Raj. & anr. vs. Hukama Lal & Ors. : D.B. Civil Special Appeal No.763/1997* (decided on 11.01.2001), that he was inducted in service. It transpires that despite the Division Bench having directed forthwith induction of the petitioner, for no fault of his, same was delayed for as long as 7 months for lack of alacrity shown by the administrative authority. After being inducted, the petitioner served until age of superannuation till year 2018 having thus rendered continuous service from 1978 to 2018 for about 40 years. Pertinently, prior to the Division Bench order, the petitioner did physically remained out of service but by virtue of the Labour Court award, which was



upheld right up to Supreme Court, his re-induction was to be treated with continuity along with consequential benefits.

CONCLUSION:

17. To sum up, the constitutional ethos mandate not merely procedural fairness but substantive justice. In a welfare State, the prolonged denial of regularization despite continuous service for decades borders on institutional exploitation, which ought not to be countenanced. The delay in implementing the directions of the Constitution Bench in *Uma Devi* by over three years (from April 2006 to July 2009) is a gross administrative default. Penalizing employees for this governmental inaction would amount to travesty of justice. Let it be reiterated — a failure to strictly follow procedure in an otherwise valid and sanctioned appointment does not render the appointment illegal. Blurring this distinction undermines the very spirit of *Uma Devi* and subsequent jurisprudence. The doctrine of legitimate expectation, well-recognized in administrative law, is clearly attracted. The petitioners, by virtue of decades of continuous service and recurring official assurances or circulars, had a legitimate expectation of being considered for regularization. A denial thereof not only defeats fairness but shakes trust in State's conduct. Apart there from, denial of regularization to persons who are similarly situated as those already regularized is a blatant infringement of the equality clause under Article 14, and continued exploitation of services without security undermines Article 21, which guarantees dignity of life.

18.1. The State should, in fact, also constitute a Monitoring Committee to oversee compliance with this judgment. This





exercise is not intended to create a precedent for future appointments through irregular means. It is a one-time corrective measure arising from prolonged systemic inertia and continued service rendered by the petitioners. The repeated misuse of *Uma Devi* judgment to justify denial of justice to deserving employees reflects either a fundamental misunderstanding or a wilful subversion of judicial dicta. This Court cautions against such misuse in future and directs legal sensitization of departmental heads on the correct application of service law jurisprudence.

18.2. At the cost of repetition, it is clarified that the doctrine of legitimate expectation, read with the mandate of Articles 14 and 21, demands that employees who have rendered decades of loyal, uninterrupted service—not through backdoor entry but through sanctioned roles—must not be kept hostage to bureaucratic apathy. Procedural rigidity cannot override substantive justice, especially when it threatens to convert long-serving human beings into expendable tools.

RELIEF:

19. Reverting to the Apex Court judgments referred above and in the light of foregoing discussion, I am of the opinion that in present case, the following approach is required qua the persons whose initial appointments were though irregular but not illegal:-

- (A). Petitioners (excluding those whose services were hired on contractual basis for the limited period State Government Projects/Schemes and External Aided Projects), whose initial appointments though irregular but were not illegal (including those who were originally engaged on ad-hoc and part-time terms and those to whom no formal





appointment letters were issued) and had completed ten years' service before or on 08.7.2009 but not under cover of orders of the Courts or Tribunals ought to be regularized from their respective dates of completion of ten years' service;

(B). To the extent of requirement of vacancies, the respondents shall have to take necessary and appropriate measures. More of it in later part.

20. Persons who had less than 10 years of service as on 08.07.2009 are not eligible under the regularization formula outlined above. Accordingly, it is both necessary and appropriate to first examine the claims of those whose initial appointments were illegal, so that the former cases may be assessed in the correct legal and administrative framework.

21. In Uma Devi (supra), while dealing with the claims of persons whose initial appointments were illegal, Supreme Court had directed that regular recruitments be undertaken to fill those vacant posts allowing the persons, whose initial appointments were illegal, to compete, waiving the age restriction imposed for recruitment and giving some weightage for their having been engaged for a significant period of time.

22. In this context, reference may be had to Rule 20 sub-rules (1) and (2) of the Rajasthan Contractual Hiring of Civil Posts Rules, 2022 which reads as under:-

“xx xxx

20. Screening. - (1) if any specific contractual post of the any scheme/project of the Government is converted into regular post and included in any service, the person working on that contractual post and who have completed five years satisfactory service shall be screened for adjudging their suitability on the post by the screening committee consisting of,-



(i) *Additional Chief Secretary/Principal Chairman
Secretary/Secretary of the Administrative Department;*

(ii) *Additional Chief Secretary/Principal Secretary/Secretary of the Finance Department or his nominee not below the rank of Deputy Secretary to the Government;*

Member

(iii) *Principal Secretary / Secretary of the Department of Personnel or his nominee not below the rank of Deputy Secretary to the Government, and*

Member

(iv) *Head of the Department*

Member-Secretary

(2) *Experience of the past service of the persons working on the posts so created on contract basis prior to the commencement of these rules, shall be given a weightage of one year for every completed three years of service.*

Example :

S.No.	Completed years of contractual service	Weightage in years
(i)	3	1
(ii)	6	2
(iii)	9	3
(iv)	12	4
(v)	15	5
(vi)	18	6
(vii)	21	7
(viii)	24	8
(ix)	27	9

Note:- (i) *The experience of completed of service shall be counted as on 1st April of the year. For the purpose of calculation of the weightage under this sub-rule, the fractions if any shall be ignored.*

(ii) *Experience required for appointment on contractual post shall not be counted for the purpose of this sub-rule.”*

23. Guided by the Rule above, I am of the view that the ends of justice would be met if, while making regular appointments, the



same formula for weightage of experience is applied to non-contractual persons whose initial appointments were illegal.

24. Addressing now the claims of persons whose initial appointments were though irregular, but not illegal and who were short of 10 years service on 08.07.2009, even if marginally, owing to which they would not be covered by the above formula for regularization of services. Their appointments being only irregular, but being short of 10 years service on the cut off date, technically they would not get any weightage of experience given in terms of the judgment in Uma Devi supra as given to those whose initial appointments were wholly illegal. Thus, such irregularly appointed persons would be worse off than even those whose initial appointments were wholly illegal. That would be anomalous and unjust. In my opinion, while making regular appointments, such irregularly appointed persons who being short of 10 years serving on cut off date missed out on regularization, should at least get the benefit of weightage of experience as is proposed to be given to those whose initial appointments were wholly illegal by adopting same formula as given in Rule 20, *ibid*.

25. As an upshot, these petitions are disposed of holding that the respondents are bound to apply the parameters laid down in Uma Devi (*supra*) and identify the petitioners (excluding those whose services were hired on contractual basis for the limited period State Government Projects/Schemes and External Aided Projects), whose initial appointments though irregular but were not illegal (including those who were originally engaged on ad-hoc and part-time terms and those to whom no formal appointment letters were issued) and had completed ten years' service before





or on 08.7.2009 but not under cover of orders of the Courts or Tribunals and issue orders regularizing their services from respective dates of completion of ten years' service with consequential benefits within six months from the receipt of web-print of this judgment and to pay the monetary benefits thereof within the next three months;

25.1. Likewise respondents shall also take necessary and appropriate measures within three months from the receipt of web-print of this judgment to the extent of requirement of vacancies for compliance of 25 above;

25.2. With reference to the parameters laid down in Uma Devi (*supra*), respondents shall also identify the petitioners (excluding those whose services were hired on contractual basis for the limited period State Government Projects/Schemes and External Aided Projects), whose initial appointments were illegal but are found ineligible to weightage for experience and waiver of age restriction and accordingly issue/communicate speaking orders to the concerned persons within four months from the receipt of web-print of this judgment;

25.3. It is also deemed appropriate that the respondents ought to take steps to issue/publish advertisement for regular recruitment to fill the available vacant posts in relevant categories allowing the persons whose initial appointments were either irregular or illegal, to compete, waiving the age restriction imposed for recruitment and giving weightage for their having been engaged for a significant period of time as per formula in Rule 20 sub -rules (1) and (2) of the Rajasthan Contractual Hiring of Civil Posts Rules, 2022 (excluding those whose services were hired on contractual



basis for the limited period State Government Projects/Schemes and External Aided Projects unless otherwise eligible).

FINAL ORDER:

26. In view of the foregoing discussion, binding precedents of the Supreme Court, and the settled legal principles and also to undo long-standing administrative injustice by exercising writ jurisdiction, following specific directions are deemed necessary, to be implemented in rem:-

I. Regularization of Eligible Petitioners

- (i) The State Government, through its Chief Secretary, shall carry a fresh exercise (regardless of rejection of earlier claims of regularization) to identify all petitioners and all such other employees (excluding those whose services were hired purely on a contractual basis for time-bound projects/schemes or through placement agencies), whose initial appointments were irregular but not illegal, and who had completed ten years of continuous service on or before 08.07.2009, without judicial intervention, and issue orders regularizing their services with effect from their respective dates of completing ten years' service.
- (ii) Such regularization shall carry with it all consequential service benefits, including continuity of service for pensionary and promotional purposes, and shall be completed within six months from the date of receipt of the web-print of this judgment.



II. Vacancies and Future Appointments

(iii) To the extent of available or necessary sanctioned vacancies, the Respondents shall initiate administrative processes to fill the same through regular recruitment, as mandated under the constitutional scheme.

(iv) While issuing recruitment notifications, the Respondents shall allow petitioners and similarly situated persons, whose initial appointments were either irregular or illegal, to:

- Compete in open selection;
- Waive the age restrictions;
- Award weightage for past service as per Rule 20(2) of the Rajasthan Contractual Hiring of Civil Posts Rules, 2022.

(v) Such recruitment notifications shall be issued within six months from the date of receipt of this judgment.

III. Petitioners With Less Than 10 Years of Service

(vi) The Respondents shall identify all petitioners/other similar employees whose initial appointments were irregular but not illegal, and who had not completed 10 years of service as on 08.07.2009. Such persons shall be accorded benefit of service weightage and age relaxation on parity with those whose appointments were illegal but eligible under Uma Devi principles.

IV. Petitioners with Illegal Appointments

(vii) In respect of petitioners/other employees whose initial appointments were found to be illegal, the State shall:

- Allow them to participate in regular recruitment processes;



- Grant age relaxation and experience-based weightage as per Rule 20(2) of the Rajasthan Contractual Hiring of Civil Posts Rules, 2022;
- Issue individual speaking orders communicating their status and eligibility within four months.

V. Constitution of Monitoring Committee

(viii) The Chief Secretary shall constitute a Monitoring Committee within 3 weeks of receipt of this judgment comprising:

- A retired High Court Judge after seeking prior consent (Chairperson),
- Secretary, Department of Personnel, State of Rajasthan to act as member secretary),
- An independent labour law expert (member).

The Committee shall:

- Oversee compliance with this judgment;
- Submit quarterly status reports to the Registrar Judicial of this Court to be placed before the learned Roster Judge for issuance further writ of continuous mandamus if warranted.

VI. Transparency & Accountability

(ix) The State Government is directed to publish the compliance report and list of regularized employees on its official website of department of personnel within 30 days of issuance of final regularization orders, to ensure transparency.

VII. Summary of Directions

For better clarity and enforceability, a tabular summary of steps to be taken is as below:-

Direction	Action	Timeline	Responsible Authority
Regularization from 10-year completion date	Identify eligible petitioners/employees in the state	6 months	Chief Secretary
Issue/publish recruitment advertisement	Allow age relaxation & weightage	6 months	Department of Personnel
Compliance publication	Website notice	1 month after regularization	Administrative Dept
Constitution of Monitoring Committee	Oversight of execution	3 weeks	Chief Secretary



27. Let a copy of this judgment be sent to the following:

- The Chief Secretary, Government of Rajasthan,
- The Principal Secretary, Department of Personnel, Government of Rajasthan,
- The Secretary, Department of Finance, Government of Rajasthan,
- The Registrar Judicial of this Court for monitoring purposes.

27.1. Ordered accordingly.

28. Aforesaid directions be applied across board qua all those employees, who are found eligible in terms of the observations and guidelines laid down in instant judgment. Non-compliance with aforesaid specific directions within the stipulated time shall entail personal accountability of the concerned administrative heads and may invite contempt proceedings under Article 215 of the Constitution.

29. Before parting, the Court places on record its deep appreciation for Mr. Rajvendra Saraswat and Mr. Manvendra Singh, learned Amicus Curiae assisted by Ms. Saumya Choudhary and Ms. Ananya Rathore Advocates for devoting their valuable time and energy, providing valuable inputs and assistance and enlightening the Court on various aspects of the case. Appreciation is also due to the learned Advocate General and his team and the learned counsel for the parties for their able assistance enabling the Court to reach the decision.

(ARUN MONGA),J

AK Chouhan/-

Whether fit for reporting : Yes / No