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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.648 of 2025

State of Odisha & Anr. ... ***Appellants***

Mr. U. C. Behera, AGA

-versus-

Amita Mohapatra ... ***Respondent***

None

CORAM:
HON'BLE MR. JUSTICE KRISHNA S. DIXIT
HON'BLE MR. JUSTICE CHITTARANJAN DASH

Date of Hearing & Judgment: 22.06.2026

Chittaranjan Dash, J.

1. Heard.

2. By means of this Writ Appeal, the Appellants have assailed the judgment and order dated 16.07.2024 passed by the learned Single Judge in W.P.(C) No.33088 of 2020, whereby the writ petition preferred by the Respondent was allowed and the authorities were directed to revoke the order of termination issued against her and to re-examine the question of regularisation of her service in accordance with law.

3. I.A. No.1686 of 2025 has been filed seeking condonation of delay of 221 days in filing the present writ appeal. Considering the averments made in the I.A. and upon hearing learned counsel for the Appellants, this Court is satisfied that sufficient cause has been shown. Accordingly, the delay in filing the writ appeal is condoned.

4. Having heard the learned AGA, the principal contention advanced on behalf of the Appellants is that the Respondent, being a

contractual employee not appointed against a sanctioned post, had no enforceable right either to continue in service or to seek regularisation and, therefore, the learned Single Judge was not justified in interfering with the order of termination.

5. The factual backdrop of the case reveals that the Respondent was initially engaged as a Pharmacist Fellow on 07.02.2006 and continued in service till issuance of the order of termination dated 23.11.2020, thereby rendering more than fourteen years of continuous service. The record further discloses that following merger of the Pain and Palliative Care Unit with the Department of Anaesthesiology of Acharya Harihar Regional Cancer Centre Hospital, Cuttack, the Respondent continued to discharge duties as a Pharmacist. It is also not in dispute that the competent authority had, on more than one occasion, recommended her case for regularisation. The Respondent had approached this Court earlier seeking consideration of her claim for regularisation. Pursuant to the directions issued by this Court and in view of the Odisha Pharmacist Service (Methods of Recruitment and Conditions of Service) Rules, 2019, the process relating to preparation and finalisation of the gradation list was underway. It was during the pendency of such exercise that the Respondent came to be terminated on the ground that she was working against a non-sanctioned post.

6. The materials on record further indicate that by the relevant point of time the Respondent had already completed more than six years of contractual service. G.A. Department Resolution No.26018 dated 17.09.2013 contemplated that upon satisfactory completion of six years of contractual service, the concerned employee would be deemed to have been regularly appointed, with a formal order of appointment to

be issued by the appointing authority. Whether the Respondent ultimately satisfied every requirement for regularisation is not the issue before us. The significance of the aforesaid Resolution lies in the fact that her claim for regularisation was neither illusory nor speculative. It was a claim recognised by the governing policy framework and was, in fact, under active consideration of the authorities themselves.

7. At this juncture, it would be apposite to refer to decision of the Hon'ble Supreme Court in ***Dharam Singh & Ors. vs. State of Uttar Pradesh & Anr***., 2025 INSC 998, wherein, relying upon the earlier decisions in ***Jaggo vs. Union of India***, 2024 SCC OnLine SC 3826**,** ***Shripal & another vs. Nagar Nigam, Ghaziabad,*** 2025 SCC OnLine SC 221 ***and State of Karnataka vs. Umadevi (3),*** (2006) 4 SCC 1, the Hon'ble Supreme Court reiterated the constitutional obligation of the State as a model employer. The relevant paragraphs of the said decision are as follows:

> "17. Before concluding, we think it necessary to recall that the State (here referring to both the Union and the State governments) is not a mere market participant but a constitutional employer. It cannot balance budgets on the backs of those who perform the most basic and recurring public functions. Where work recurs day after day and year after year, the establishment must reflect that reality in its sanctioned strength and engagement practices. The long-term extraction of regular labour under temporary labels corrodes confidence in public administration and offends the promise of equal protection. Financial stringency certainly has a place in public policy, but it is not a talisman that overrides fairness, reason and the duty to organise work on lawful lines.
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> 18. Moreover, it must necessarily be noted that "ad-hocism" thrives where administration is opaque. The State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious

> engagement over sanctioned posts where the work is perennial. If "constraint" is invoked, the record should show what alternatives were considered, why similarly placed workers were treated differently, and how the chosen course aligns with Articles 14, 16 and 21 of the Constitution of India. Sensitivity to the human consequences of prolonged insecurity is not sentimentality. It is a constitutional discipline that should inform every decision affecting those who keep public offices running."

8. This Court also finds guidance from the recent decision of the Hon'ble Supreme Court ***Sukhendu Bhattacharjee and Others vs. State of Assam and Others***, 2026 LiveLaw (SC) 529. It is noteworthy that while deciding the said batch of cases, the Hon'ble Supreme Court again drew support from the line of authorities including ***Jaggo*** (Supra), ***Shripal*** (Supra) and ***Umadevi (3)*** (Supra), while emphasising that regularisation cannot be denied solely because initial appointment was not against Sanctioned Post. The relevant paragraphs are reproduced below:

> 76. What emerges from the principles enunciated in the aforesaid decisions is that the State cannot rely upon the mere form of engagement to deny fair and equitable treatment to employees who have served it for long years. The consistent thread running through these judgments is that Umadevi (supra) cannot be invoked as a blanket barrier to justify prolonged and continued engagements of a temporary or ad hoc nature, especially where the employees have been discharging essential and recurring functions of the State. The Court has repeatedly emphasised that the distinction between "illegal" and "irregular" appointments must be kept in view, that long and continuous service is a relevant consideration, and that the State, as a model employer, is under a constitutional obligation to act with fairness, consistency and reasonableness. The practice of retaining employees for decades under deceptively titled designations, while simultaneously extracting regular work integral to the administration, has been disapproved consistently.

> 77. Applying these principles to the present case, it is evident that engaging workers on muster rolls was a consistently employed policy of the State which continued for prolonged period of time. The appellants were not engaged for sporadic or seasonal purposes but were taken on muster rolls and have rendered continuous service for decades in departments performing regular governmental functions. The State itself acknowledged the magnitude of the issue and framed a Cabinet policy to regularize similarly situated workers, acting upon it in respect of nearly 30,000 employees. In such circumstances, to deny consideration to the fraction of remaining eligible workers including the appellants, by taking shelter under a rigid reading of Umadevi (supra) would defeat the very principles of fairness and non-arbitrariness that this Court has consistently upheld.
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> 78. In the aforesaid backdrop, we are unable to accept the contention of the State that the appellants cannot be granted regularization on the ground that they were not initially appointed against duly sanctioned posts. The State, having engaged the appellants prior to 1st April, 1993, utilised their services continuously for decades, and having itself framed and implemented a Cabinet policy regularizing nearly 30,000 similarly situated workers, cannot now exclude the appellants by taking shelter behind a rigid or technical reading of Umadevi (supra). In absence of any cogent distinction or reasoned decision justifying such exclusion, the action of the State is manifestly arbitrary. It is inconsistent with its obligation to function as a model employer and does not withstand scrutiny under Article 14 of the Constitution.

9. The principle emerging from the aforesaid decisions is that the State cannot indefinitely extract work of a perennial nature through temporary arrangements and thereafter rely upon administrative or financial considerations to justify continued insecurity of employment. The constitutional obligation of fairness does not cease merely because the engagement is described as contractual.

10. The learned Single Judge has rightly noticed that the Respondent’s case for regularisation had remained pending despite

recommendations made by the competent authority. The State continued to avail her services for more than a decade and simultaneously permitted the regularisation process to remain inconclusive. In such circumstances, the plea subsequently advanced that the Respondent was occupying a non-sanctioned post cannot be examined in isolation from the conduct of the authorities themselves.

11. We are also unable to accept the principal contention of the Appellants that the Respondent's claim must fail solely because she was working against a non-sanctioned post. The existence of a sanctioned post may undoubtedly be a relevant consideration while examining a claim for regularisation. However, in the peculiar facts of the present case, it cannot be treated as a complete answer to the Respondent's grievance. The State was fully aware of the nature of her engagement from the very inception. Despite such knowledge, it continued to utilise her services for more than a decade, recommended her case for regularisation and permitted the process relating to regularisation to remain pending.

12. To permit the State, in such circumstances, to rely upon the very ground which existed throughout the period of engagement would amount to allowing it to take advantage of its own inaction. If the Respondent was indeed working against a non-sanctioned post, that circumstance was always within the exclusive knowledge and control of the authorities.

13. Moreover, the order of termination appears to have been issued at a stage when the Respondent's claim for regularisation was awaiting culmination. The learned Single Judge was, therefore, justified in holding that the authorities could not defeat such claim by abruptly

terminating her engagement and thereafter citing the absence of a sanctioned post as a justification.

14. In the aforesaid factual and legal backdrop, we find no perversity, jurisdictional error or manifest illegality in the reasoning adopted by the learned Single Judge. On the contrary, the directions issued merely require revocation of the termination and reconsideration of the Respondent's claim for regularisation in accordance with law. We are, therefore, of the considered view that no case for interference in exercise of our intra-Court appellate jurisdiction is made out.

15. As a result, finding no infirmity in the judgment under appeal, the present Writ Appeal stands dismissed. The Appellants are granted three months' time from the date of this judgment to implement the directions issued by the learned Single Judge in the judgment dated 16.07.2024 passed in W.P.(C) No.33088 of 2020.

16. Pending I.As., if any, also stands disposed of accordingly.

Registry is directed to send a copy of this judgement forthwith by Registered Post/ Speed Post to the Respondent for reference.

(Chittaranjan Dash)
Judge

(Krishna S. Dixit)
Judge

A.K.Pradhan/Bijay/Sarbani/Priyanka