

(2024) 12 SC CK 0073

Supreme Court Of India

Case No: Civil Appeal No. 14831 Of 2024 (Arising Out Of Special Leave Petition (Civil) No. 5580 Of 2024)

Jaggo

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision: Dec. 20, 2024

Acts Referred:

- Constitution of India, 1950 - Article 14, 16

Hon'ble Judges: Vikram Nath, J; Prasanna B. Varale, J

Bench: Division Bench

Advocate: Akshay Bedi, Mohd. Anas, Ram Lal Roy, Udian Sharma, Kshitij Mudgal, Jaitegan Singh Khurana, Akshaya Jebakumar, Manav Mitra, Anshul Rajora, K. M Nataraj, Bhuvan Kapoor, Rajan Kumar Chourasia, Vinayak Sharma, Shubham Saxena, Prasenjeet Mohapatra, Shashank Bajpai, Dr. N. Visakamurthy, Akshay Bedi, Mohd. Anas, Ram Lal Roy

Final Decision: Allowed

Judgement

.....

Vikram Nath, J.",.....

1. Leave granted.....

2. These appeals arise out of the judgment dated 08.08.2023 passed by the High Court of Delhi at New Delhi in W.P.(C) No. 6822 of 2018, whereby",.....

the High Court dismissed the writ petition filed by the appellants and confirmed the order of the Central Administrative Tribunal, Principal Bench Delhi",.....

â€œthe Tribunalâ€ dated 17.04.2018 whereby it dismissed the original application of the appellants seeking regularization of their services.....

3. The appellants before this Court, who were applicants before the Tribunal originally numbered five. However, the fourth applicant before the",.....

Tribunal has not approached this Court. Therefore, these appeals are instituted by Applicant Nos.1, 2, 3, and 5 only. The sole Appellant in SLP(C) No." ,,,,,

5580/2024 was applicant no. 2 before the Tribunal whereas the Appellant no. 1, 2 and 3 in SLP(C) No. 11086/ 2024 were Applicant Nos. 1, 3 and 5" ,,,,,

respectively before the Tribunal. For ease of reference and to maintain consistency, they shall continue to be referred to by their original applicant" ,,,,,

numbers as before the Tribunal. ,,,,,

4. The appellants before this Court, being Applicant Nos.1, 2, 3, and 5 before the Tribunal, were originally engaged by the Central Water Commission" ,,,,,

â€œCWCâ€ on part-time, ad-hoc terms. Applicant No.1 was appointed as a Safaiwali in 1993, Applicant No.2 as a Safaiwali in 1998, and Applicant" ,,,,,

No.3 as a Safaiwali in 1999. All three were primarily responsible for cleaning and maintaining the office premises under the CWC. Applicant No.5," ,,,,,

appointed in 2004 as a Khallasi (also discharging duties akin to a Mali/Khallasi), was entrusted with tasks such as gardening, dusting, and other" ,,,,,

ancillary maintenance work. Throughout their engagement, these individuals performed essential housekeeping and support functions at CWC" ,,,,,

establishments, including its offices at Faridabad, ensuring daily upkeep and contributing to the smooth functioning of the Commissionâ€™s" ,,,,,

administrative operations. ,,,,,

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 â€œpart-timeâ€ or â€œcontractualâ€ and that they were" ,,,,,

performing ongoing and core functions integral to the CWCâ€™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 appellantsâ€™ plea. It concluded that the appellants were not" ,,,,,

engaged on what it considered â€œregular vacancies,â€ that they had not completed what it termed as sufficient â€œfull-timeâ€ 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. ,,,,,

6. Aggrieved by the Tribunal's decision and subsequent termination, the appellants approached the High Court in W.P.(C) No. 6822 of 2018" ,,,,,

praying for the following reliefs: ,,,,,

â€œa) Setting aside and quashing the impugned order dated 17.04.2018 passed by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi in O.A." ,,,,,

No. 2211/2015 titled as Smt. Anita & Ors. Versus Union of India & Ors., and" ,,,,,

b) Directing the respondents to reinstate the petitioners to their posts held by them prior to their illegal termination on 27.04.2018 and further to regularize the services, ,,,,,

of all the petitioners in their respective posts, from the date of their initial appointments with all the consequential benefits, in the interest of justice." ,,,,,

c) Issue the writ of mandamus or any other appropriate writ, direction, or order, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the" ,,,,,

case, in favor of the petitioners and against the respondents.â€" ,,,,,

7. They urged the High Court to recognize their long and continuous service, the nature of their work, and the lack of any backdoor or illegal entry." ,,,,,

They highlighted that they had functioned without any break, performed tasks equivalent to regular employees, and had been assigned duties essential" ,,,,,

to the regular upkeep, cleanliness, and maintenance of the respondent's offices. The" ,,,,,

High Court, after examining the Tribunal's decision and the submissions advanced, concluded that the petitioners before it were part-time workers" ,,,,,

who had not been appointed against sanctioned posts, nor had they performed a sufficient duration of full-time service to satisfy the criteria for" ,,,,,

regularization. It relied on the principle laid down in Secretary, State of Karnataka vs. Uma Devi (2006) 4 SCC 1 holding that the petitioners could" ,,,,,

not claim a vested right to be absorbed or regularized without fulfilling the requisite conditions. The High Court further observed that the petitioners did, ,,,,,

not possess the minimum educational qualifications ordinarily required for regular appointments, and additionally noted that the employer had" ,,,,,

subsequently outsourced the relevant housekeeping and maintenance activities. Concluding that there was no legal basis to grant the reliefs sought, the",,,,,

High Court dismissed the writ petition. Aggrieved by this rejection, the appellants have approached this Court by way of these appeals.",,,,,

8. On behalf of the appellants, the following arguments have been advanced before us:",,,,,

(i). Continuous and Substantive Engagement: The appellants emphasize their long, uninterrupted service spanning well over a decadeâ€"and in some instances,",,,,

exceeding two decades. They argue that their duties were neither sporadic nor project-based but permanent and integral to the daily functioning of the",,,,,

respondentâ€™s offices.",,,,,

(ii). Nature of Duties: Their responsibilitiesâ€" such as cleaning, dusting, gardening, and other maintenance tasksâ€"were not casual or peripheral. Instead, they",,,,,

were central to ensuring a clean, orderly, and functional work environment, effectively aligning with roles typically associated with regular posts.",,,,,

(iii). Absence of Performance Issues: Throughout their tenure, the appellants were never issued any warning or adverse remarks. They highlight that their work was",,,,,

consistently satisfactory, and there was no indication from the respondents that their performance was not satisfactory or required improvement.",,,,,

(iv). Compliance with â€˜Uma Deviâ€™ Guidelines: The appellants assert that their appointments were not â€œillegalâ€ but at most â€œirregular.â€ Drawing on the",,,,,

principles laid down in Secretary, State of Karnataka vs. Uma Devi (2006) 4 SCC 1, they submit that long-serving employees in irregular appointmentsâ€"who fulfil",,,,,

essential, sanctioned functionsâ€"are entitled to consideration for regularization.",,,,,

(v). Discrimination in Regularization: The appellants point out that individuals with fewer years of service or similar engagements have been regularized. They",,,,,

contend that denying them the same benefit, despite their longer service and crucial role, constitutes arbitrary and discriminatory treatment.",,,,,

(vi). Irrelevance of Educational Qualifications: The appellants reject the respondentsâ€™ reliance on formal educational requirements, noting that such criteria were",,,,,

never enforced earlier and that the nature of their work does not inherently demand formal schooling. They argue that retrospectively imposing such qualifications is",,,,,

unjustified given their proven capability over many years.,,,,,

(vii). Equity and Fairness: Ultimately, the appellants submit that the High Court erred by focusing too rigidly on their initial terms of engagement and ignoring the",,,,, substantive reality of their long, integral service. They maintain that fairness, equity, and established judicial principles call for their regularization rather than abrupt",,,,, termination.,,,,,

9. On the other hand, the following primary arguments have been advanced before us on behalf of the Respondents:",,,,,

(i). Nature of Engagement: The respondents maintain that the appellants were engaged purely on a part-time, contractual basis, limited to a few hours a day, and that",,,,,

their work was never intended to be permanent or full-time.,,,,,

(ii). Absence of Sanctioned Posts: They assert that the appellants were not appointed against any sanctioned posts. According to the respondents, without",,,,,

sanctioned vacancies, there can be no question of regularization or absorption into the permanent workforce.",,,,,

(iii). Non-Compliance with Uma Devi™ Criteria: Relying heavily on Secretary, State of Karnataka vs. Uma Devi (supra), the",,,,,

respondents argue that the appellants do not meet the conditions necessary for regularization. They emphasize that merely serving a long period on a part-time or ad-.,,,,,

S.No.,Name,"Educational

Qualification","Date

of Continuous CWC

Service","Temporary

or

Permanent

posts",Category

1.,"Krishna

s/o

Lt. Khajan

Singh",Illiterate,26.07.1988,Permanent,SC

2., "Naresh
Devi w/o
Ld.
Surendra
Kumar", Illiterate, 29.10.1991, Permanent, Gen

3., "Shiv
Kumar
s/o
Lt. Pratap
Singh", Illiterate, 08.09.1994, Permanent, SC

4., "Radhe Shyam
s/o
Lt. Sadhu
Ram Maurya", Illiterate, 30.05.2012, Permanent, OBC

5., "Raju s/o
Shri Banshi
Lal", Illiterate, 12.07.1994, Permanent, SC

6., "Shahjad
Ali
s/o Naushad
Ali", Illiterate, 01.07.2010, Permanent, Gen

7., "Punam
w/o Lt.
Raj Kumar", Illiterate, 21.09.2015, Permanent, SC

8., "Nirmala
w/o Lt.

Raju", Illiterate, 02.02.2022, Temporary, SC

â€¢ Lack of Career Progression: Temporary employees often find themselves excluded from opportunities for skill development, promotions, or" ,,,,,

incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their",,,,, contributions being equally significant.,,,,,

â€¢ Using Outsourcing as a Shield: Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing",,,,, one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the",,,,, obligation to offer regular employment.,,,,,

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

26. While the judgment in Uma Devi (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional",,,,, principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment",,,,, aimed to distinguish between â€œillegalâ€ and â€œirregularâ€ 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. ,,,,,

29. There shall be no order as to costs. ,,,,,