

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

WEDNESDAY, THE EIGHTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 26722 OF 2022

Between:

Md. Yousuf, S/o Md. Khasim, aged about 61 years, Working in Temporary post of contingent Sweeper in PS. Atmakur, Mandal Atmakur, Wanaparty District, TS.

...PETITIONER

AND

1. The State of Telangana, rep. by its Principal Secretary, Panchayathraj Department, Telangana Secretariat, Hyderabad.
2. The State of Telangana, rep. by its Principal Secretary, Finance and Planning Department, Telangana Secretariat, Hyderabad.
3. The District Collector, and Chairman of Selection Committee and Minimum Wages Committee, Wanaparty District.
4. The Zilla Praja Parishad, Wanaparty District, Rep. by its Chief Executive Officer.
5. The Mandal Parishad Development Officer, Atmakur Mandal, Wanaparty District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus to declare the action of the Respondents in not treating the services of petitioner as regular one in last grade post for working from 44 long years on full time even not paying legitimate wages of Full Time Sweeper, as per appointment dated 27-01-1978, as unjust, unfair, totally arbitrary and violation of Article 14, 16, 21, 39 (d), 43 and 300 (A) of our Constitution in denying legitimate living wages to petitioner by not implementing Section 13 and 15 of Minimum Wages Act, 1948 and provisions of Equal Remuneration Act, 1976 and Govt. Orders from time to time, to pay living wages to petitioner and prays to direct the Respondents herein to treat the services of the petitioner as regular one in last grade post from the date of initial appointment of 27-01-1978 by applying the decision and principle laid by the Hon'ble

Apex Court in the case of Prem Singh Vs State of U.P. (2019 (1) SCC 516) and Division Bench of this Hon'ble Court in WP No. 33936 of 2011 and Batch Cases dated 02-05-2018 (2020 (4) ALD 379 TS (DB) followed by decision of the Hon'ble High Court of A.P. in W.A.No. 483 of 2021 dated 05-08-2021 based on principle laid by the Hon'ble Supreme Court in C.A. No. 1254 of 2018 Apex Court, dated 23-03-2018 to reckon contingent services of petitioner for computation of qualifying service to grant of pension, gratuity and other retirement benefits by releasing consequential monetary benefits in the last grade post including periodical increments, as revised from time to time with 100 percentage compensation as per principle laid by Apex Court in the case of Union of India Vs. Avtar Chand in C.A.No. 3416 - 3445 of 2010 and Batch Cases dated 19-02-2019 (ALD 3 of 2019 SC 32) by applying the aforesaid principles and decisions of the Hon'ble Apex Court and Division Benches under Article 141 of our Constitution by this Hon'ble Court in the case of petitioner.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to continue the petitioner in service by paying on par with regularly engaged last grade employees along with periodical increments as revised from time to time as per the orders granted in I.A. No. 1 of 2018 in WP No. 38763 of 2018 dated 30-10-2018 in similarly situated case forthwith.

Counsel for the Petitioner: SRI CH.GANESH

Counsel for the Respondent Nos.1 TO 3 & 5: GP FOR SERVICES-II

**Counsel for the Respondent No.4: SRI PRADEEP REDDY K/ TTA,
SC FOR MPP ZPP**

The Court made the following: ORDER

HON'BLE MRS. JUSTICE SUREPALLI NANDA**WRIT PETITION No.26722 OF 2022****ORDER:**

Heard Sri Ch. Ganesh, learned counsel appearing on behalf of the petitioner, learned Government Pleader for Services-II appearing on behalf of the respondents 1 to 3 and 5 and Sri Pradeep Reddy Katta, learned Standing Counsel appearing on behalf of respondent No.4.

2. The petitioner approached this Court seeking the prayer as under:

"...to issue an order or direction more particularly one in the nature of Writ of Mandamus to declare the action of the Respondents in not treating the services of petitioner as regular one in last grade post for working from 44 long years on full time even not paying legitimate wages of Full Time Sweeper, as per appointment dated 27.01.1978, as unjust, unfair, totally arbitrary and violation of Articles 14, 16, 21, 39 (d), 43 & 300 (A) of our Constitution in denying legitimate living wages to petitioner by not implementing Section 13 and 15 of Minimum Wages Act, 1948 and provisions of Equal Remuneration Act, 1976 and Govt. Orders from time to time, to pay living wages to petitioner and prays to direct the Respondents herein to treat the services of the petitioner as regular one in last grade post from the date of initial appointment of 27.01.1978 by applying the decision and principle laid by the Hon'ble Apex Court in the case of Prem Singh Vs. State of U.P. (2019 (1) SC 516) and Division Bench of this Hon'ble Court in W.P.No.33936 of 2011 and Batch Cases dated 02.05.2018

(2020 (4) ALD 379 TS (DB) followed by decision of the Hon'ble High Court of A.P. in W.A.No.483 of 2021 dated 05.08.2021 based on principle laid by the Hon'ble Supreme Court in C.A.No.1254 of 2018 Apex Court, dated 23.03.2018 to reckon contingent services of petitioner for computation of qualifying service to grant of pension, gratuity and other retirement benefits by releasing consequential monetary benefits in the last grade post including periodical increments, as revised from time to time with 100% compensation as per principle laid by Apex Court in the case of Union of India Vs. Avtar Chand in C.A.No.3416 - 3445 of 2010 & Batch Cases dated 19.02.2019 (ALD 3 of 2019 SC 32) by applying the aforesaid principles and decisions of the Hon'ble Apex Court & Division Benches under Article 141 of our Constitution by this Hon'ble Court in the case of petitioner and pass...

3. Learned counsel appearing on behalf of the petitioner placing reliance on the averments made in the affidavit filed in support of the present writ petition, pertaining in particular, to the services rendered by petitioner with the respondents herein for more than a decade contends that the petitioner is entitled for the relief as prayed for in the present writ petition.

PERUSED THE RECORD:-

DISCUSSION AND CONCLUSION:-

4. Learned counsel appearing on behalf of the petitioner submits that the subject issue in the present

case is squarely covered by the order of this Court, dated 08.09.2010 passed in W.P.No.24377 of 2007 reported in 2011(1) ALD, Page 234 as confirmed in W.A.No.782 of 2010, dated 10.06.2013 and also order, dated 19.09.2017 passed in W.P.No.27217 of 2017 reported in 2018 (2) ALD Page 282 and also the order, dated 21.04.2020 passed in W.P.No.23057 of 2019 reported in 2020(4) ALD Page 379.

5. Learned standing counsel appearing on behalf of the respondent No.4 submits that the grievance of the petitioner as put-forth in the present Writ Petition had not been addressed to the respondents herein as on date and therefore, the petitioner cannot complain inaction on the part of respondents herein in considering the grievance of the petitioner and hence, the relief as prayed for by the petitioner in the present Wit petition cannot be granted and no Mandamus can be issued against the respondents hereunder as sought for and the petitioner may be directed to put-forth the petitioner's grievance as put-forth in the present Writ Petition by way of a detailed representation to the respondents herein and upon receipt of the said representation, the respondents would consider the same in accordance to law, within a reasonable period.

6. Learned counsel appearing on behalf of the petitioner does not dispute the said submission made by the learned standing counsel appearing on behalf of the respondent No.4.

7. The Apex Court in the judgment reported in (2020) 1 SCC (L&S) in Prem Singh v State of Uttar Pradesh and others, at para 36 held as under:

"36. There are some of the employees who have not been regularized in spite of having rendered the services for 30-40 or more years whereas they have been superannuated. As they have worked in the work-charged establishment, not against any particular project, their services ought to have been regularized under the Government instructions and even as per the decision of this Court in State of Karnataka versus Umadevi (3)¹¹. This Court in the said decision has laid down that in case services have been rendered for more than ten years without the cover of the Court's order, as one-time measure, the services be regularized of such employees. In the facts of the case, those employees who have worked for ten years or more should have been regularized. It would not be proper to regulate them for consideration of regularization as others have been regularized, we direct that their services be treated as a regular one. However, it is made clear that they shall not be entitled to claiming any dues of difference in wages had they been continued in service regularly before attaining the age of superannuation. They shall be entitled to receive the pension as if they **have retired from the regular establishment and the services rendered by them right from the day they entered the work-charged establishment shall be counted as qualifying service for purpose of pension.**"

8. The Apex Court in the case of Dharwad District PWD Literate Daily Wage Employees Association Vs. State of Karnataka reported in 1990(2) SCC Page 396 laid principle that the State should not keep a person in temporary or adhoc service for long period and have to treat such persons as regular one.

9. Para No.53 of the of the judgment of the Apex Court in the State of Karnataka and others Vs. Umadevi, dated 10.04.2006 reported in (2006) 4 SCC 1 is extracted hereunder:-

"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa [1967 (1) SCR 128], R.N. Nanjundappa [1972 (1) SCC 409] and B.N. Nagarajan [1979 (4) SCC 507] 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 the 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 aboveresferred 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 the 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. ...

10. The judgment of the Apex Court dated 20.12.2024, reported in 2024 LawSuit(SC) 1209 in Jaggo Anita and others v. Union of India and others, and the relevant paragraph Nos.12, 13, 24, 26, 27 and 28 are extracted hereunder:

"12. Despite being labelled as "part-time workers," the appellants performed these essential tasks on a daily and continuous basis over extensive periods, ranging from over a decade to nearly two decades. Their engagement was not sporadic or temporary in nature, instead, it was recurrent, regular, and akin to the responsibilities typically associated with sanctioned posts. Moreover, the respondents did not engage any other personnel for these tasks during the appellants' tenure, underscoring the indispensable nature of their work.

13. The claim by the respondents that these were not regular posts lacks merit, as the nature of the work performed by the appellants was perennial and fundamental to the functioning of the offices. The recurring nature of these duties necessitates their classification as regular posts, irrespective of how their initial engagements were labelled. It is also noteworthy that subsequent outsourcing of these same tasks to private agencies after the appellants' termination demonstrates the inherent need for these services. This act of outsourcing, which effectively replaced one set of workers with another

further underscores that the work in question was neither temporary nor occasional.

24. The landmark judgment of the United State in the case of Vizcaino v Microsoft Corporation [97 F.3d 1187 (9th Cir. 1996)] serves as a pertinent example from the private sector, illustrating the consequences of misclassifying employees to circumvent providing benefits. In this case, Microsoft classified certain workers as independent contractors, thereby denying them employee benefits. The U.S. Court of Appeals for the Ninth Circuit determined that these workers were, in fact, common-law employees and were entitled to the same benefits as regular employees. The Court noted that large Corporations have increasingly adopted the practice of hiring temporary employees or independent contractors as a means of avoiding payment of employee benefits, thereby increasing their profits. This judgment underscores the principle that the nature of the work performed, rather than the label assigned to the worker, should determine employment status and the corresponding rights and benefits. **It highlights the judiciary's role in rectifying such misclassifications and ensuring that workers receive fair treatment.**

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."

11. The Judgment of the Apex Court dated 31.01.2025 reported in 2025 INSC 144 in "SHRIPAL AND ANOTHER v. NAGAR NIGAM, GHAZIABAD", in particular, the relevant para Nos.15 to 19 are extracted hereunder:

"15. It is manifest that the Appellant Workmen continuously rendered their services over several years, sometimes spanning more than a decade. Even if certain muster rolls were not produced in full, the Employer's failure to furnish such records—despite directions to do so—allows an adverse inference under well-established labour jurisprudence. Indian labour law strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature. Morally and legally, workers who fulfil ongoing municipal requirements year after year cannot be dismissed summarily as dispensable, particularly in the absence of a genuine contractor agreement. At this juncture, it would be appropriate to recall the broader critique of indefinite "temporary" employment practices as done by a recent judgement of this court in Jaggo v. Union of India in the following paragraphs:

"22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.

.....
25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to 2024 SCC OnLine SC 3826 evade long-term obligations owed to employees. These practices manifest in several ways:

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

• Arbitrary Termination: Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a

state of constant insecurity, regardless of the quality or duration of their service. • Lack of Career Progression: Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.

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

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

16. The High Court did acknowledge the Employer's inability to justify these abrupt terminations. Consequently, it ordered re-engagement on daily wages with some measure of parity in minimum pay. Regrettably, this only perpetuated precariousness: the Appellant Workmen were left in a marginally improved yet still uncertain status. While the High Court recognized the importance of their work and hinted at eventual regularization, it failed to afford them continuity of service or meaningful back wages commensurate with the degree of statutory violation evident on record.

17. In light of these considerations, the Employer's discontinuation of the Appellant Workmen stands in violation of the most basic labour law principles. Once it is established that their services were terminated without adhering to Sections 6E and 6N of the U.P. Industrial Disputes Act, 1947, and that they were engaged in essential, perennial duties, these workers cannot be relegated to perpetual uncertainty. While concerns of municipal budget and compliance with recruitment rules merit consideration, such concerns do not absolve the Employer of statutory obligations or negate equitable entitlements. Indeed, bureaucratic limitations cannot trump the legitimate rights of workmen who have served continuously in de facto regular roles for an extended period.

18. The impugned order of the High Court, to the extent they confine the Appellant Workmen to future daily-wage engagement without continuity or meaningful back wages, is hereby set aside with the following directions:

I. The discontinuation of the Appellant Workmen's services, effected without compliance with Section 6E and Section 6N of the U.P. Industrial Disputes Act, 1947, is declared illegal. All orders or communications terminating their services are quashed. In consequence, the Appellant Workmen shall be treated as continuing in service from the date of their termination, for all purposes, including seniority and continuity in service.

II. The Respondent Employer shall reinstate the Appellant Workmen in their respective posts (or posts

akin to the duties they previously performed) within four weeks from the date of this judgment. **Their entire period of absence (from the date of termination until actual reinstatement) shall be counted for continuity of service and all consequential benefits, such as seniority and eligibility for promotions, if any.**

III. Considering the length of service, the Appellant Workmen shall be entitled to 50% of the back wages from the date of their discontinuation until their actual reinstatement. The Respondent Employer shall clear the aforesaid dues within three months from the date of their reinstatement.

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 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.

19. In view of the above, the appeal(s) filed by the workmen are allowed, whereas the appeal(s) filed by the Nagar Nigam Ghaziabad are dismissed."

12. The Apex Court in a judgment reported in (2017) 1 Supreme Court Cases 148, in State of Punjab and others vs

Jagjit Singh and others at Paras 54 and its sub-paras**(1)(2)(3), of the said judgment observed as under:**

"54 "The Full Bench of the High Court, while adjudicating upon the above controversy had concluded, that temporary employees were not entitled to the minimum of the regular pay-scale, merely for the reason, that the activities carried on by daily-wagers and regular employees were similar. The full bench however, made two exceptions. Temporary employees, who fell in either of the two exceptions, were held entitled to wages at the minimum of the pay-scale drawn by regular employees. The exceptions recorded by the full bench of the High Court in the impugned judgment are extracted hereunder:-

"(1) A daily wager, ad hoc or contractual appointee against the regular sanctioned posts, if appointed after undergoing a selection process based upon fairness and equality of opportunity to all other eligible candidates, shall be entitled to minimum of the regular pay scale from the date of engagement.

(2) But if daily wagers, ad hoc or contractual appointees are not appointed against regular sanctioned posts and their services are availed continuously, with notional breaks, by the State Government or its instrumentalities for a sufficient long period i.e. for 10 years, such daily wagers, ad hoc or contractual appointees shall be entitled to minimum of the regular pay scale without any allowances on the assumption that work of perennial nature is available and having worked for such long period of time, an equitable right is created in such category of persons. Their claim for regularization, if any, may have to be considered separately in terms of legally permissible scheme.

(3) In the event, a claim is made for minimum pay scale after more than three years and two months of completion of 10 years of continuous working, a daily wager, ad hoc or contractual employee shall be entitled to arrears for a period of three years and two months."

13. The judgment of the Apex Court reported in 2010(9)**SCC 247 between: State of Karnataka and others v**

M.L.Kesari and others, in particular, paras 4 to 9 reads as under:

4. The decision in State of Karnataka v. Umadevi was rendered on 10.4.2006 (reported in 2006 (4) SCC 1). In that case, a Constitution Bench of this Court held that appointments made without following the due process or the rules relating to appointment did not confer any right on the appointees and courts cannot direct their absorption, regularization or re-engagement nor make their service permanent, and the High Court in exercise of jurisdiction under Article 226 of the Constitution should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment had been done in a regular manner, in terms of the constitutional scheme; and that 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, nor lend themselves to be instruments to facilitate the bypassing of the constitutional and statutory mandates. This Court further held that a temporary, contractual, casual or a daily-wage employee does not have a legal right to be made permanent unless he had been appointed in terms of the relevant rules or in adherence of Articles 14 and 16 of the Constitution. This Court however made one exception to the above position and the same is extracted below :

"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa [1967 (1) SCR 128], R.N. Nanjundappa [1972 (1) SCC 409] and B.N. Nagarajan [1979 (4) SCC 507] 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 the 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 aboveresferred 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 the 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.

"5. It is evident from the above that there is an exception to the general principles against 'regularization' enunciated in Umadevi, if the following conditions are fulfilled :

(i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years.

(ii) The appointment of such employee should not be illegal, even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive selection, such appointments are considered to be irregular.

(iii) Umadevi casts a duty upon the concerned Government or instrumentality, to take steps to regularize the services of those irregularly appointed employees who had served for more than ten years without the benefit or protection of any interim orders of courts or tribunals, as a one-time measure. Umadevi, directed that such one-time measure must be set in motion within six months from the date of its decision (rendered on 10.4.2006).

6. The term 'one-time measure' has to be understood in its proper perspective. This would normally mean that after the decision in Umadevi, each department or each instrumentality should undertake a one-time exercise and prepare a list of all casual, daily-wage or ad hoc employees who have been working for more than ten years without the intervention of courts and tribunals and subject them to a process verification as to whether they are working against vacant posts and possess the requisite qualification for the post and if so, regularize their services.

7. At the end of six months from the date of decision in Umadevi, cases of several daily-wage/ad-hoc/casual employees were still

pending before Courts. Consequently, several departments and instrumentalities did not commence the one-time regularization process. On the other hand, some Government departments or instrumentalities undertook the one-time exercise excluding several employees from consideration either on the ground that their cases were pending in courts or due to sheer oversight. In such circumstances, the employees who were entitled to be considered in terms of Para 53 of the decision in Umadevi, will not lose their right to be considered for regularization, merely because the one-time exercise was completed without considering their cases, or because the six month period mentioned in para 53 of Umadevi has expired. The one-time exercise should consider all daily-wage/adhoc/those employees who had put in 10 years of continuous service as on 10.4.2006 without availing the protection of any interim orders of courts or tribunals. If any employer had held the one-time exercise in terms of para 53 of Umadevi, but did not consider the cases of some employees who were entitled to the benefit of para 53 of Umadevi, the employer concerned should consider their cases also, as a continuation of the one-time exercise. The one time exercise will be concluded only when all the employees who are entitled to be considered in terms of Para 53 of Umadevi, are so considered.

8. The object behind the said direction in para 53 of Umadevi is two- fold. First is to ensure that those who have put in more than ten years of continuous service without the protection of any interim orders of courts or tribunals, before the date of decision in Umadevi was rendered, are considered for regularization in view of their long service. Second is to ensure that the departments/instrumentalities do not perpetuate the practice of employing persons on daily-wage/ad-hoc/casual for long periods and then periodically regularize them on the ground that they have served for more than ten years, thereby defeating the constitutional or statutory provisions relating to recruitment and appointment. The true effect of the direction is that all persons who have worked for more than ten years as on 10.4.2006 (the date of decision in Umadevi) without the protection of any interim order of any court or tribunal, in vacant posts, possessing the requisite qualification, are entitled to be considered for regularization. The fact that the employer has not undertaken such exercise of regularization within six months of the decision in Umadevi or that such exercise was undertaken only in regard to a limited few, will not disentitle such employees,

the right to be considered for regularization in terms of the above directions in Umadevi as a one-time measure.

9. These appeals have been pending for more than four years after the decision in Umadevi. The Appellant (Zila Panchayat, Gadag) has not considered the cases of respondents of regularization within six months of the decision in Umadevi or thereafter.

10. The Division Bench of the High Court has directed that the cases of respondents should be considered in accordance with law. The only further direction that needs be given, in view of Umadevi, is that the Zila Panchayat, Gadag should now undertake an exercise within six months, a general one-time regularization exercise, to find out whether there are any daily wage/casual/ad-hoc employees serving the Zila Panchayat and if so whether such employees (including the respondents) fulfill the requirements mentioned in para 53 of Umadevi. If they fulfill them, their services have to be regularized. If such an exercise has already been undertaken by ignoring or omitting the cases of respondents 1 to 3 because of the pendency of these cases, then their cases shall have to be considered in continuation of the said one time exercise within three months. It is needless to say that if the respondents do not fulfill the requirements of Para 53 of Umadevi, their services need not be regularised. If the employees who have completed ten years service do not possess the educational qualifications prescribed for the post, at the time of their appointment, they may be considered for regularization in suitable lower posts. This appeal is disposed of accordingly.

14. In the judgment of the Apex Court in Nilal Singh and others v. State of Punjab reported in (2013) 14 SCC 65, the Supreme Court considered the case of absorption of Special Police Officers appointed by the State, whose wages were paid by Banks at whose disposal their services were made available. It held that the mere fact that wages were paid by the Bank did not render the appellants 'employees' of those Banks since the appointment was

made by the State and disciplinary control vested with the State. It held that the creation of a cadre or sanctioning of posts for a cadre is a matter exclusively within the authority of the State, but if the State did not choose to create a cadre but chose to make appointments of persons creating contractual relationship, its action is arbitrary. It also refused to accept the defence that there were no sanctioned posts and so there was justification for the State to utilise services of large number of people like the appellants for decades. It held that "sanctioned posts do not fall from heaven" and that the State has to create them by a conscious choice on the basis of some rational assessment of need. Referring to Umadevi, it held that the appellants before them were not arbitrarily chosen, their initial appointment was not an 'irregular' appointment as it had been made in accordance with the statutory procedure prescribed under the Police Act, 1861, and the State cannot be heard to say that they are not entitled to be absorbed into the services of the State on permanent basis as, according to it, their appointments were purely temporary and not against any sanctioned posts created by the State. It was held that the judgment in Umadevi cannot

become a licence for exploitation by the State and its instrumentalities and neither the Government of Punjab nor those public sector Banks can continue such a practice inconsistent with their obligation to function in accordance with the Constitution.

15. The judgment of the Apex Court reported in 2015 SCC Online SC 1797 between B.Srinivasulu and others v Nellore Municipal Corporation Rep.by its Commissioner, Nellore District, Andhra Pradesh and others, in particular paras 7 and 8 reads as under:

(7) We find it difficult to accept the reasoning adopted by the High Court. The right of the appellants to seek regularization flows from the G.O. No.212 dated 22.4.1994. The appellants have been in service of the first respondent not only prior to the issuance of the said G.O. but even subsequent to the issue of G.O. till today. The respondent Municipality being a statutory body is obliged by the G.O. 212(supra). In spite of the above mentioned G.O. the respondents kept quite for almost 20 years without regularising the service of the appellants and continued to extract work from the appellants.

8. In the circumstances, refusing the benefit of the above mentioned G.O. on the ground that the appellants approached the Tribunal belatedly, in our opinion, is not justified. In the circumstances, the appeal is allowed modifying the order under appeal by directing that the appellants' services be regularised with effect from the date of their completing their five year continuous service as was laid down by this Court in District Collector/Chairperson & Others vs. M.L. Singh & Ors. 2009 (8) SCC 480.

16. In Amarkant Rai v State of Bihar reported (2015) 8 SCC 265, the Supreme Court held that "The objective

behind the exception carved out in this case was to permit regularization of such appointment, which are irregular but not illegal, and to ensure appointments, which are irregular but not illegal, and to ensure security of employment of those persons who had served the State Government and their instrumentalities for more than ten years". In that case, employee was working for 29 years. This decision approves earlier view expressed in M.L.Kesari extracted above.

17. In State of Jarkhand v Kamal Prasad reported in (2014) 7 SCC 223, similar view was taken by the Supreme Court and it was held as follows :

"41.... In view of the categorical finding of fact on the relevant contentious issue that the respondent employees have continued in their service for more than 10 years continuously therefore, the legal principle laid down by this Court in Umadevi case (State of Karnataka v Umadevi (2006) 4 SCC 1 : 2006 SCC (L&S) 73) at para 53 squarely applies to the present cases. The Division Bench of the High Court has rightly held that the respondent employees are entitled for the relief, the same cannot be interfered with by this Court."

18. The Judgment of this Court dated 06.12.2022 passed in W.P.No.27602 of 2019 which pertains to regularization of 35 NMRS of Sri Lakshmi Narasimha Swamy Temple, Yadadri, Nalgonda District, which

had been upheld by the Division Bench of this Court in W.A.No.937 of 2023 dated 10.10.2023 and also confirmed by the order of Apex Court dated 09.08.2024 in SLP No.32847 of 2024.

19. The judgment of the Apex Court in Hari Krishna Mandir Trust V. State of Maharashtra and Others reported in AIR 2020 Supreme Court 3969 and in particular para Nos.100 and 101 held as follows:

"100. The High Courts exercising their jurisdiction under Article 226 of the Constitution of India, not only have the power to issue a writ of mandamus or in the nature of mandamus, but are duty-bound to exercise such power, where the Government or a public authority has failed to exercise or has wrongly exercised discretion conferred upon it by a statute, or a rule, or a policy decision of the Government or has exercised such discretion mala fide, or or irrelevant consideration.

101. In all such cases, the High Court must issue a writ of mandamus and give directions to compel performance in an appropriate and lawful manner of the discretion conferred upon the Government or a public authority."

20. The Division Bench of this Court in its Judgment dated 10.06.2013 passed in W.A.Nos.782 of 2010 and 854 of 2012 while upholding the Judgment dated 08.09.2010 passed in W.P.No.24377 of 2007 and C.C.No.48 of 2008 observed as under:-

"Further, it is manifest from the material on record that the services of the similarly placed persons who approached the law Courts were regularized. The appellant-Corporation also issued various office orders/circulars dated 20.12.1989, 11.09.1992, 06.10.2007 and latest being 4.7.2009 for regularization of casual/contract employees, It is also to be seen that Section 25-T of the ID Act prohibits unfair labour practice by any employer or workman. As can be seen from the factual scenario of the cases on hand, engaging the respondents for such a long and continuous period of time on casual basis is nothing but unfair labour practice attracting the provisions of Section 25-T of the ID Act. The learned Single Judge while relying on the decisions of the Apex Court, rightly held that the respondents are entitled to regularization as directed in the impugned orders, as the learned single Judge considered all the aspects of the matter in detail, in the proper perspective, which, in our considered view does not warrant interference in these appeals."

21. The Division Bench of this Court in its Judgment dated 19.09.2017 passed in W.P.No.27217 of 2017 reported in 2018(2)ALD page 282 at para 16 and para 18 observed as under:-

"16. It is trite that the law declared by the Supreme Court is binding throughout the country under Article 141 of the Constitution of India. It is noteworthy that by the time the judgment in *Uma Devi's case* (supra), was rendered, the provisions of Act 2 of 1994 and G.O. Ms. No.212, dated 22.4.1994, were in existence. The Supreme Court, while denouncing the practice of regularization and absorption of f persons, who entered service through back doors by giving a go-bye to the due procedure prescribed for appointments to public posts, consciously ordered for one-time absorption/regularization of those, who were working for a period of not less than 10 years. It has given directions in this regard to all the State Governments and also Union of India. The Supreme Court is presumed to be conscious of various State enactments such as Act 2 of 1994 and executive orders such as G.O. Ms. No.212, dated 22.4.1994, while giving directions in Para No.53 of the judgment in *Uma Devi's case* (supra). But still, it has not made any exception in favour of the States where State enactments banning regularization/absorption exist. **Therefore, Act 2 of 1994 and G.O. Ms. No.212, dated 22.4.1994, do not whittle**

down the width and the judgment in *Majula Bashini's case* (supra), does not lower the trajectory of the directions issued by the Supreme Court in Para 53 of its judgment in *Uma Devi's case* (supra). It is, therefore, not permissible for the respondents to take shelter under Act 2 of 1994 and G.O. Ms. No.212, dated 22.4.1994, to deny regularization to the petitioners, who have, admittedly, satisfied the criteria laid down in Para No.53 of the judgment in *Uma Devi's case* (supra).

18. For the aforementioned reasons, order, dated 27.6.2017, in OA No.1442 of 2014, on the file of the Tribunal is set aside and the writ petition is allowed with the direction to the respondents to consider regularisation of the services of the petitioners against the existing vacancies of Work Inspectors and appoint them subject to their satisfying the criteria laid down in Para No.53 of the judgment in *Uma Devi's case* (supra). This process must be completed within two months from the date of receipt of a copy of this order."

22. The Division Bench of this Court in its Judgment dated 21.04.2020 passed in I.A.Nos.1 of 2020 in 1 of 2019 and W.P.No.23057 of 2019 reported in 2020(4)ALL page 379 at paras 45, 48 and para 50 observed as under:-

"45. There is no dispute that petitioners have been working on daily wage since 1990 and have put in almost (30) years of service by now. They have been given minimum time-scale from the year 2000. They have been continuously working without any Court orders in their favour from 1990 till date.

48. It is not known why the 1st respondent has not followed the decision in *Uma Devi's case* (supra), as explained in *M.L. Kesari's case* (supra) and undertaken a one-time exercise of preparing the list of daily wage employees who had worked for more than ten (10) years without the intervention of the Courts and Tribunals as on 10.4.2006 and subject them to a process verification as to whether they are working against vacant posts and possess requisite qualifications for the posts, and if so, regularize their services.

50. Accordingly, the writ petition is allowed; the impugned orders dated 20.8.2019 passed by the 1st respondent rejecting the cases of petitioners for regularization of services on one-time basis are declared as illegal, arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India; the respondents are directed to regularize on one-time basis petitioners' services from the date each of the petitioners complete 10 years of service on daily wages from the initial dates of their appointment. But, they shall not be entitled to any monetary relief. The said exercise shall be done within two (2) weeks from the date of receipt of copy of the order."

23. This Court opines that in the present case, the respondents failed to discharge their duty in examining the request of the petitioner for regularization of petitioner's services, who is working as part time sweeper and further to consider his request to treat the temporary service of the petitioner in the last grade post of part time sweeper as regular one for all purposes by granting last grade pay with periodical increment revised from time to time from the date of appointment of the petitioner, in accordance to law.

24. This Court opines that petitioner is entitled for consideration of petitioner's case for grant of the relief as prayed for in the present Writ Petition in view of the observations of the Apex Court in various judgments (referred to and extracted above) and the view of the

Division Bench of this Court in the Judgments referred to and extracted above.

25. Taking into consideration:-

- a) The aforesaid facts and circumstances of the case.
- b) The submissions made by the learned counsel appearing on behalf of the petitioner and learned standing counsel appearing on behalf of the respondent No.4.
- c) The observations of the Apex Court in the various judgments (referred to and extracted above) and again enlisted below:

- i)(2020) 1 SCC (L&S)
- (ii) 1990(2) SCC Page 396
- (iii) 2025 INSC 144
- (iv) 2024 LawSuit(SC) 1209
- (v) (2017) 1 SCC 148
- (vi) 2010(9) SCC 247
- (vii) (2013) 14SCC 65
- (viii) 2015 SCC Online SC 1797
- (ix) (2015) 8 SCC 265
- (x) (2014) 7 SCC 223
- (xi) SLP No.32847 of 2024
- (xii) AIR 2020 Supreme Court 3969
- (xiii) (2006) 4 SCC 1
- (xiv) 2011 (1) ALD, Page 234
- (xv) 2018(2)ALD page 282
- (xvi) 2020(4)ALD page 379

- d) The Division Bench order of this Court dated 10.06.2013 passed in W.A.Nos.782 of 2010 and 854 of 2012 while uploading the Judgment dated 08.09.2010

passed in W.P.No.24377 of 2007 and C.C.No.48 of 2008 (referred to and extracted above),

e) The Division Bench order of this Court dated 19.09.2017 passed in W.P.No.27217 of 2017 (referred to and extracted above),

f) The Division Bench order of this Court dated 21.04.2020 passed in I.A.Nos.1 of 2020 in 1 of 2019 and W.P.No.23057 of 2019 (referred to and extracted above).

g) In the light of discussion and conclusion as arrived at as above from para Nos.4 to 24 of the present order.

The Writ Petition is allowed, the petitioner is directed to put-forth the claim of the petitioner for regularization of petitioner's services, and also the claim of the petitioner to treat the temporary services of the petitioner in the last grade post of Sweeper as regular one for all purposes by granting last grade pay with periodical increments revised from time to time from the date of appointment of the petitioner and all consequential benefits, duly enclosing all the relevant documents in support of petitioner's case as put-forth in the present writ petition, within a period of

one (01) week from the date of receipt of copy of the order and the respondents shall examine and consider the same in accordance to law, in conformity with principles of natural justice by providing an opportunity of personal hearing to the petitioner, in terms of orders passed by the Supreme Court in Uma Devi's case reported in 2006(4) SCC Page 1, the judgment passed in W.P.No.24377 of 2007 dated 08.09.2010 reported in 2011 (1) ALD, Page 234 and as confirmed in W.A.No.782 of 2010 dated 10.06.2013, and also as per Division Bench Judgment of this Court dated 19.09.2017 passed in W.P.No.27217 of 2007 reported in 2018(2)ALD page 282 and also the Division Bench Judgment of this Court dated 21.04.2020 passed in I.A.Nos.1 of 2020 in 1 of 2019 in W.P.No.23057 of 2019 reported in 2020(4)ALD page 379 which had attained finality, within a period of four (04) weeks from the date of receipt of a copy of this order, duly taking into consideration the observations and the law laid down by the Apex Court in the various judgments (referred to and extracted above), and in particular, para No.53 of the judgment of the Apex Court in the case of State of Karnataka v. Uma Devi and duly communicate the decision

to the petitioner. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

SD/- A. SRINIVASA REDDY
ASSISTANT REGISTRAR



//TRUE COPY//

SECTION OFFICER

**One Fair Copy to the Hon'ble MRS JUSTICE SUREPALLI NANDA
(For Her Ladyships Kind Perusal)**

To

1. The Principal Secretary, Panchayathraj Department, Telangana Secretariat, Hyderabad, State of Telangana.
2. The Principal Secretary, Finance and Planning Department, Telangana Secretariat, Hyderabad, State of Telangana.
3. The District Collector, and Chairman of Selection Committee and Minimum Wages Committee, Wanaparty District.
4. The Chief Executive Officer, Zilla Praja Parishad, Wanaparty District.
5. The Mandal Parishad Development Officer, Atmakur Mandal, Wanaparty District.
6. 11 LR Copies.
7. The Under Secretary, Union of India Ministry of Law, Justice and Company Affairs, New Delhi.
8. The Secretary, Telangana Advocates Association Library, High Court Buildings, Hyderabad.
9. One CC to SRI CH.GANESH, Advocate [OPUC]
10. Two CCs to GP FOR SERVICES-II, High Court for the State of Telangana, at Hyderabad. [OUT]
11. One CC to SRI PRADEEP REDDY KATTA, SC FOR MPP ZPP [OPUC]
12. Two CD Copies

PSK.



CC TODAY

HIGH COURT

DATED:08/10/2025

ORDER

WP.No.26722 of 2022



ALLOWING THE WRIT PETITION
WITHOUT COSTS

27
ANT
13/4/26