



<u>Serial No. 01</u> <u>Supplementary List</u>
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HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 135 of 2025

Date of Decision :30.06.2026

All NEHU Workers' Union (ANWU)
 Represented by the President of the Union
 Shri Napoleon S. Mawphniang
 S/o (L) B.W. Roy Pamshong,
 R/o Syadheh, P.O. Umsning,
 Ri-Bhoi District, Meghalaya-793105

... **Petitioner(s)**

Versus

1. North Eastern Hill University (NEHU),
 Represented by the Registrar of the University,
 Mawkynroh, Umshing, East Khasi Hills District,
 Shillong-793022.
2. The Registrar,
 North Eastern Hill University (NEHU), Campus,
 Shillong-793022.

.... **Respondent(s)**

Coram:

Hon'ble Mr. Justice H.S. Thangkhiew, Judge.

Appearance:

For the Petitioner(s) : Mr. P. Yobin, Adv.

For the Respondent(s) : Mr. S. Sen, Adv. with
 Ms. E. Blah, Adv.



i)	Whether approved for reporting in Law journals etc:	Yes/No
ii)	Whether approved for publication in press:	Yes/No

JUDGMENT AND ORDER

1. The writ petitioner an incorporated body, registered under the Trade Union Act, 1926 is before this Court by way of the instant writ petition praying for directions to regularize/absorb the workers who are the members of the Union serving for more than 10 years, apart from other consequential reliefs.

2. Mr. P. Yobin, learned counsel for the petitioner submits that the petitioner Union has been actively espousing the cause of its members serving under the respondents and that the said members have put in long years of uninterrupted services in their respective posts and had been serving for decades. The appointments he submits were not illegal, but at the most irregular and has relied upon the principles laid down in the case of *Umadevi (2006) 4 SCC 1*, to contend that long serving employees in irregular appointments who fulfill essential, sanctioned functions, are entitled to consideration for regularization. It is further submitted that vide an RTI query, it has been confirmed that 201 Union members, occupy posts within the 401 sanctioned Group-C positions, which would satisfy the threshold of



the *Umadevi's* case and that their roles exist within the University's established cadre.

3. The learned counsel has cited the case of *Jaggo vs. Union of India & Ors. 2024 SCC OnLine SC 3826*, in support of his arguments and has submitted that by the said judgment it has been held that performing essential duties on a continuous basis, creates a substantive reality of employment and that labelling workers as casual for 20 years while they maintain critical infrastructure in the University, is a legal fiction. The members of the Union he submits, who were engaged by the Assistant Registrar, are on the official pay roll and that statutory deductions of (EPF/ESI) are made, and as such he contends this constitutes irregular, but not illegal appointment, making them eligible for regularization. The learned counsel has also placed reliance on the judgment in the case of *Vinod Kumar & Ors. vs. Union of India & Ors. (2024) 9 SCC 327*, which he submits has clearly distinguished between irregular and illegal appointments. Learned counsel has also referred to the case of *Dharam Singh & Ors. vs. State of U.P. & Ors. 2025 SCC OnLine 1735*, in support of his case. With regard to the submissions of the counsel for the respondents of the dismissal of prior cases involving casual workers, the learned counsel submits that the earlier litigants were pro-rata workers, a distinct class whose employment conditions deferred fundamentally from the members of the petitioner



Union. To illustrate this point, it has been submitted that there is a fundamental disparity in the salary structures, wherein pro-rata workers were paid on a pay scale basis under a general mode regardless of their specific scales, whereas the members of the Union were paid according to the Government of India, Ministry of Labour and Employments' minimum wage standards, and their compensation classified by category such as, skilled, semi-skilled and un-skilled and were paid according to the specific designation of the post they hold.

4. In conclusion, it has been submitted that the conduct of the respondents reveals an attitude of total indifference towards the welfare of its backbone workforce, and there are a large number of vacant sanctioned posts both at the Group-B and Group-C levels, against which the members of the Union can be given due consideration for regularisation.

5. Mr. Sen, learned counsel for the respondents in reply, has submitted that the members of the petitioner Union are casual workers and were not appointed against sanctioned posts. The said appointments it is submitted, were made without following the regular procedure of recruitment, or selection, a fact which is not controverted by the writ petitioners. Learned counsel submits that a similar matter had come up for consideration before this Court in *WP(C) No. (SH) 113 of 2011 (Shri Tanbor Langbang & Ors. vs. NEHU & Ors.)*, wherein this Court by



Judgment and Order dated 03.05.2013, dismissed the writ petition by holding that the petitioners therein, had been engaged as casual workers without following the procedure prescribed under the constitutional Scheme and also not against any sanctioned posts. An appeal from the said Judgment though filed he submits, was not pursued which has resulted in its finality, and the same cannot be reopened. The learned counsel on the question of binding precedents, has placed the decisions in the cases of *Official Liquidator vs. Dayanand & Ors. (2008) 10 SCC 1* and the Judgment of *Satish Chander Sharma & Ors. vs. State of Himachal & Ors. 2025 SCC OnLine SC 792*. On the decision cited by the petitioner i.e. *Jaggo vs. Union of India & Ors.* (supra), it has been submitted that the said judgment has not diluted or deviated from the ratio laid down in *Umadevi's* case rather the same has reiterated what has been held in *Umadevi's* case, with regard to illegal and irregular appointments. He therefore, submits that the writ petitioners being bound by the earlier orders of this Court, and having been appointed irregularly as casual workers and that too not against sanctioned posts, the writ petition is liable to be rejected.

6. Heard learned counsel for the parties. The simple issue put up by the petitioner Union, is for a mandamus to direct the respondents to regularize/absorb the casual workers who are members of the petitioner Union who have been serving in the University for periods of over 10 years



to 20 years. To buttress this demand, the writ petitioner Union has sought to link the same to the number of vacant Group-B and Group-C sanctioned posts available in the University, the information which has been obtained through an RTI query dated 18.10.2024, and in this context, heavy reliance has been placed in the case of *Jaggo vs. Union of India & Ors.* (supra).

7. First, it is important to note that this Court in the Judgment of *Shri Tanbor Langbang & Ors. vs. NEHU & Ors.* (supra) had held at Para-5, as follows: -

“5. From the pleaded case of the petitioners in the writ petition, nature of their engagements and the affidavit-in-opposition filed by the respondents, it is clear that the petitioners have been engaged as casual employees or daily wage basis for a certain period without following the procedure prescribed under the Constitutional Scheme of public appointment. Over and above, the petitioners were not appointed/engaged in a sanctioned post but they were engaged in daily wage basis without following the required procedure for public employment as their services were needed to meet the needs of the Institution. The services of the petitioners come to an end when it is discontinued. It is fairly settled that the recruit process of recruitment or employment has to be resorted to, when regular vacancies in posts, at a particular point of time, are to be filled up and the filling up of those vacancies cannot be done in a haphazard manner or based on patronage or other considerations. Regular appointment must be the rule. But in this instant case, there are no regular posts or regular vacancies for regular appointment of the petitioners and therefore, there is no question of filling up of regular vacancies or regularizations of the casual services of the petitioners. However, this Court in the following paras will discuss as to whether the case of the petitioners are covered by Para-53 of the Umadevi's case (Supra).”



8. In the above quoted case, the writ petitioners who had preferred the writ petition against the respondent NEHU were engaged/appointed as casual workers on daily wage/fixed salary basis on being appointed by the Assistant Registrar. Though an attempt has been made by the counsel for the petitioner to distinguish the present case from the earlier writ petition, the basic facts, nature of engagement being identical, this contention is not accepted. Further, a perusal of the above quoted paragraph, would show that as in the instant case, the appointments were not against sanctioned posts, nor was any procedure of selection adopted.

9. Though as observed above, the petitioners would be bound by the earlier judgments of this Court and the position of settled law as it pertained then, however, certain changes have since occurred in the legal landscape in the matter of regularization of temporary employees, that requires a revisitation of their claims. These changes are notable in the cases of *Vinod Kumar & Ors. vs. Union of India & Ors* (supra) and *Dharam Singh & Ors. vs. State of U.P. & Ors.* (supra), apart from the landmark case of *Jaggo vs. Union of India & Ors.* (supra). By applying the ratio of the judgments, where continuous service of perennial nature performed by an employee and where the appointment is not illegal, but at the most irregular, be given consideration, similarly the case of the petitioners cannot be shut down merely because they have not come through a selection process; that



the engagement is termed temporary; and that the said appointment was not made against sanctioned posts. In this context, relevant paragraphs from the aforementioned judgments are reproduced hereinbelow: -

i) Jaggo vs. Union of India & Ors. 2024 SCC OnLine SC 3826

“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.”

ii) *Vinod Kumar & Ors. vs. Union of India & Ors. (2024) 9 SCC 327*

“7.The judgment in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] 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. Para 53 of Umadevi (3) case is reproduced hereunder : (SCC p. 42)

“53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa [State of Mysore v. S.V. Narayanappa, 1966 SCC OnLine SC 23] , R.N. Nanjundappa [R.N. Nanjundappa v. T. Thimmiah, (1972) 1 SCC 409] and B.N. Nagarajan [B.N. Nagarajan v. State of Karnataka, (1979) 4 SCC 507 : 1980 SCC (L&S) 4] 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 regularisation 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 abovereferred 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 regularise 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. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.”

(emphasis in original)

8. In light of the reasons recorded above, this Court finds merit in the appellants' arguments and holds that their service conditions, as evolved over time, warrant a reclassification from temporary to regular status. The failure to recognise the substantive nature of their roles and their continuous service akin to permanent employees runs counter to the principles of equity, fairness, and the intent behind employment regulations.”

iii) *Dharam Singh & Ors. vs. State of U.P. & Ors. 2025 SCC OnLine 1735*

“10. It must be noted that the premise of “no vacancy” is, in any event, contradicted by the evidence on record. An RTI response of 22.01.2010 received from the office of Respondent No. 2 indicated existence of Class-IV vacancies. Furthermore, I.A. No. 109487 of 2020 filed before this Court by the appellants specifically pointed to at least five vacant Class-IV/Guard posts and one vacant Driver post within the establishment. That application also set out the names of similarly situated daily wagers who were regularised earlier within the same Commission. No rebuttal was filed to the I.A. The unrebutted assertion of vacancies and the comparison with those who received regularisation materially undermine the High Court's conclusion that no vacancy existed and reveal unequal treatment vis-à-vis persons similarly placed. Selective regularisation in the same establishment, while continuing the appellants on daily wages despite comparable tenure and duties with those regularized, is a clear violation of equity.”

11. Furthermore, it must be clarified that the reliance placed by the High Court on Umadevi (Supra) to non-suit the appellants is misplaced. Unlike Umadevi (Supra), the challenge before us is not an invitation to bypass the



constitutional scheme of public employment. It is a challenge to the State's arbitrary refusals to sanction posts despite the employer's own acknowledgement of need and decades of continuous reliance on the very workforce. On the other hand, Umadevi (Supra) draws a distinction between illegal appointments and irregular engagements and does not endorse the perpetuation of precarious employment where the work itself is permanent and the State has failed, for years, to put its house in order. Recent decisions of this Court in Jaggo v. Union of India⁴ and in Shripal v. Nagar Nigam, Ghaziabad⁵ have emphatically cautioned that Umadevi (Supra) cannot be deployed as a shield to justify exploitation through long-term “ad hocism”, the use of outsourcing as a proxy, or the denial of basic parity where identical duties are exacted over extended periods. The principles articulated therein apply with full force to the present case. The relevant paras from Shripal (supra) have been reproduced hereunder:

“14. The Respondent Employer places reliance on Umadevi (supra)² 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.

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 judgment of this court in Jaggio v. Union of India³ 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 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.”*

10. Reverting back to the facts of the instant case, it is noted that by an RTI query, it has come to light that as on 18.10.2024 (Annexure-3), there are a total number of 24 vacant posts in Group-B service and 185 posts in



Group-C. The reply further states that the total number of sanctioned posts available in Group-B are 122 and 401 in Group-C, out of which the current number of regular staff in Group-B are 63, and 183 in Group-C. Though it is noted for 14 posts in Group-B and 140 posts in Group-C, an advertisement had been floated on 03.11.2023 to fill up these posts, however, it has been stated on affidavit that the said advertisement, has since been cancelled or withdrawn. The fact that emerges therefore, is that there are a sizeable number of vacant sanctioned posts that are available in the University against which regular appointment can be afforded.

11. This Court is alive to the fact that public employment should be through an advertisement, fair competition and selection, consistent with Article 14 and 16 of the Constitution, but however, in reality such as in the instant case, there are workers who have served for decades under temporary arrangements and continuing for long years without ever entering sanctioned rolls. Opposed to this, is the common unemployed aspirant who possesses merit but would find the posts unavailable and already filled up, without a recruitment exercise ever being conducted, due to the accommodation of temporary employees who have entered service de hors a selection process. Thus, the question that always arises before the Courts is to how to balance the equities, where consideration for regularization would be in order for deserving cases of long continuous temporary employment, against the set



doctrine of equality of opportunity, which cannot also be ignored or overlooked.

12. It is also understood that there is a constant friction between constitutional ideals and administrative realities, where urgent necessity for staff in view of procedural delays or financial considerations, calls for appointments to be made on a temporary basis without any proper selection process, whereas, public employment should ideally be through proper selection and competition governed by statutory rules and due process. The Constitution Bench in the case of *Umadevi* (supra), reasserted Constitutional Principles over administrative convenience and held that regularization of illegal or irregular appointments, cannot be permitted to defeat the guarantee of equality of opportunity under the Article 16, while at the same time acknowledged the hardships faced by long serving temporary employees. This Judgment, while allowing a onetime regularization measure for employees who had served over 10 years against sanctioned posts, and whose appointment were not illegal thus, restored discipline and fairness in public employment as per Article 16. The Judgment which can be said to be a landmark watershed judgment, established certain principles from which subsequent service jurisprudence has evolved and Courts have applied these principles. Judgements which have been rendered post *Umadevi*, have reaffirmed that illegal appointments cannot be regularized and that equality



of opportunity is the yardstick, but however, Courts have also to examine cases based on their individual facts and circumstances. Thus, in several judgments, the Hon'ble Supreme Court has affixed administrative accountability where temporary engagements have been resorted to, though permanent engagement was necessary.

13. In the instant case, the fact that cannot be ignored is that most of the members of the Union have put in long years of continuous service ranging from 10 to 30 years. By applying the law as discussed above, this Court is of the considered view that, a blanket denial for consideration of their cases would be unjustified. Accordingly, it is directed that the Respondent University, conduct a review of its sanctioned strength and existing vacancies in the Group B and C posts, against which the eligible members of the petitioner Union can be considered for regularization subject to fulfillment of qualification criteria as per prevalent rules and norms. The exercise considering its nature and magnitude, shall be conducted by a duly constituted Committee to be chaired by an officer to be nominated by the Executive Council, not below the rank of Registrar and shall also comprise Senior members from the Finance and Administrative branches of the University. The entire exercise should be completed preferably within a period of 6(six) months from today. It is further provided that until the said exercise is completed, there shall be no displacement of the members of the



Union who are employed in the temporary posts in question, as detailed in the Chart appended to the writ petition.

14. The writ petition in terms of the directions made hereinabove is closed and disposed of.

JUDGE

Meghalaya
30.06.2026
"V. Lyndem- AR-PS"