



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(i) CWP-14424-2007 (O&M)

Devinder Kumar and anotherPetitioners

Versus

State of Punjab and othersRespondents

(ii) COCP-2290-2011 (O&M)

Devinder Kumar @ Davinder Kumar and anotherPetitioners

Versus

Rajinder Singh Sukka and anotherRespondents

1.	The date when the judgment is reserved	03.07.2026
2.	The date when the judgment is pronounced	13.07.2026
3.	The date when the judgment is uploaded on	13.07.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof.	Not applicable

CORAM: HON’BLE MR. JUSTICE NAMIT KUMAR

Argued by : Mr. R.K. Arora, Senior Advocate assisted by
Mr. Prabhat K. Jalbera, Advocate for the petitioners.

Mr. N.P.S. Hira, D.A.G., Punjab.

Mr. R.S. Khosla, Senior Advocate assisted by
Ms. Mankreet Sangar, Mr. Yogender Verma and
Ms. Abadhya Singh, Advocates for respondents No.3 & 4.

NAMIT KUMAR, J.

1. This judgment shall dispose of abovesaid petitions, as common question of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CWP-14424-2007.



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2. The petitioners have filed the instant petition under Articles 226/227 of the Constitution of India, seeking issuance of a writ of mandamus directing the respondents to consider and regularize the services of the petitioners in view of the Policy Instructions dated 15.12.2006 (Annexure P-3) which have been issued as per the dictum of the Apex Court in ***State of Karnataka and others Vs. Umadevi and others: (2006) 4 SCC 1*** and keeping in view the judgment dated 26.04.2007 (Annexure P-4). Further, seeking issuance of a writ of prohibition restraining respondents No.3 & 4 from relieving the petitioners for further sending them to respondent No.5 till the case of the petitioners for regularization under the policy is considered.

3. Brief facts, as have been pleaded in the present petition, are that petitioner No.1 was appointed on 01.11.1991 and petitioner No.2 was appointed on 01.04.1992 on the post of Chowkidar on contract basis by respondent No.5-Punjab Water Supply & Sewerage Board, Hoshiarpur for the purpose of looking after and running the tubewells which were installed in Ward No.2 as well as Birampur Road, Garhshankar. Thereafter, vide communication dated 01.01.2000 (Annexure P-1), respondent No.5 handed over the abovesaid tubewells along with the staff to the Municipal Council, Garhshankar. After absorption of the petitioners, respondents No.3 & 4 have passed various resolutions. The resolution dated 15.03.2000 (Annexure P-2) clearly shows that the petitioners were adjusted in the Municipal Council, Garhshankar and their scale etc. were also not altered. In view of the judgment of Hon'ble Supreme Court in ***Uma Devi's case (supra)***, the



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Punjab Government issued policy instructions dated 15.12.2006 (Annexure P-3) which provides regularization of the work-charged, daily wage workers and employees working on 89 days/ad hoc/temporary basis. After coming to know about the said policy instructions which were also applicable to the Municipal Council in the State of Punjab, the petitioners submitted a representation dated 10.07.2007 (Annexure P-5) to respondent No.4 for regularization of their services under the said instructions. However, instead of considering their cases for regularization under the said instructions, respondent No.4 became annoyed and asked the petitioners on 24.08.2007 to report back to respondent No.5 from where they were sent to the Municipal Council. Thereafter, the petitioners gave their reply to respondent No.4 that since the tubewells have been taken over by the Municipal Council, therefore, it will not be possible for them to go and join with respondent No.5. After 31.08.2007, the petitioners were not being allowed to work with respondent No.4. On 05.09.2007, the petitioners went to the office of respondent No.5 and explained the entire situation. However, respondent No.5 informed the petitioners that since there is no written order and tubewells in question are still with the Municipal Council, therefore, the question of their being sent to respondent No.5 does not arise and as such, respondent No.5 shown its inability to allow the petitioners to join with respondent No.5. Hence, the instant petition.

4. Short reply by way of affidavit of Sh. Darshan Singh, PCS, Joint Secretary to Government of Punjab, Department of Local



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Government, Punjab, Chandigarh, on behalf of respondents No.1 & 2 has been filed, wherein it has been stated that the relief claimed by the petitioners is decidable at the level of respondents No.3 & 4 because the posts against which the petitioners were engaged to work on contractual basis have not been constituted, as yet. Reply by way of an affidavit of Sh. Ravinder K. Aggarwal, Sub Divisional Engineer, PWSSB, Hoshiarpur, on behalf of respondent No.5, has been filed wherein it has been stated as under :-

“1. That the schemes i.e. tubewells were handed over by the PWSSB for further maintenance and operation to the Municipal Council, Gharshanker, as desired by the Municipal Council. Also on the request of the Municipal Council, Garshankar, the petitioners were transferred along with the schemes. Thus, the petitioners have no concern and employer-employee relationship with the Punjab Water Supply and Sewerage Board. The petitioners who became employees of the Municipal Council, Garhshankar have no legal right of regularization against the Punjab Water Supply and Sewerage Board at this stage and thus the writ petition deserves to be dismissed qua the answering respondent.

2. That the case of the petitioners is not covered under policy instructions dated 15.12.2006 as the instructions have been issued only qua daily wages/work charged and employees working on 89 days/adhoc/temporary basis whereas the petitioners were appointed on contract basis. The writ petition should be dismissed on this ground alone.”

5. Written statement by way of an affidavit of Sh. Sarabjit Singh, Executive Officer, Municipal Council, Garshankar, on behalf of



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respondent No.4, has also been filed, wherein it has been stated as under :-

1. *That the petitioners were appointed by the Punjab Water Supply and Sewerage Board, Hoshiarpur on various dates on contract basis. The Board was looking after and running tubewells within the Municipal Committee Garshaknagar. On 1.1.2000, the Municipal Committee took over control of the same from the Board. The petitioners are claiming that the latter had 'Transferred: the petitioners' services alongwith the tubewells to the Municipal Committee. There being no rule under which such a "Transfer" of a contract employee could be done, it was actually a case of a fresh appointment on contract basis by the Municipal Council.*
2. *That the Hon'ble Supreme Court while handing down the definitive judgment in Uma Devi (3)-(2006) 4 S.C.C. 1 - had made it clear that henceforward there would be no regularization of contract basis and other such employees. However, as a one time measure the Supreme Court permitted the regularization of irregularly (but not illegally) appointed employees initiating the process during the next six months. Only such employees had been appointed as per due procedure; had been appointed against regular posts; and had been continuing for at least ten years but not due to stay order of any court, may be regularized as per this one time measure.*
3. *That the Punjab Government, as a one time measure permitted by the Supreme Court framed a Scheme dated 15th December, 2006 which is annexed to the petition as Annexure P-3. 10.04.2006 was fixed as the cut-off date for calculating 10 years service.*
4. *That the services of the petitioners cannot be regularized because the basic requirement for employment*



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as per the Supreme Court is that it must be as per the constitutional Scheme of public appointment keeping in view the mandate of Articles 14 and 16 of the constitution. These employees were appointed afresh on contract basis without following any legal formalities required for recruitment in accordance with rules.

5. *That the petitioners also did not fulfill the condition of 10 years service. They were appointed by the Municipal Council on 01.01.2000 on taking over the tubewells. Actually, even then they were not appointed as per rules in force because previous permission of the department of local government was not taken. The Department, however, gave the post - facto sanction to the appointment.*

6. *That the Hon'ble Supreme Court has also held that while ordering regularization of adhoc employees etc. care may be taken not to impose on the State any undue financial burden. (Para 19, Uma Devi (3)). Municipal Committees/councils/corporations in Punjab already have a surplus manpower of the order of 2000 regular employees resulting from regularization orders of various courts. Any further regularization will seriously hamper the local bodies in the discharge of their duties and impose undue financial burden on them.*

7. *That the resolution of the Municipal Council passed in the past have no value because of the law as declared by the Hon'ble Supreme Court. The judgment of the Supreme Court in State of Punjab V/s Gurcharan Singh Kahlon depended upon by the petitioners is also of no avail to them because the Division Bench has made it very clear that judgment is not to be treated as a precedent in future and accordingly is a judgment in persona and not a judgment in rem.”*



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6. In compliance with order dated 24.11.2022 passed by this Court, an additional affidavit by respondent No.4, has been filed wherein it has been specifically stated that no sanctioned post of Chowkidar exists within the Municipal Council and as such there is no post against which the petitioners can be regularized. So far as the operation of tubewells is concerned, the same was outsourced to an outside agency and are not being operated by any personnel of the Municipal Council.

7. Learned Senior counsel for the petitioners has argued that in view the judgment of Hon'ble Supreme Court in *Uma Devi's case (supra)*, the Punjab Government issued a policy instructions dated 15.12.2006 (Annexure P-3) regarding regularization of the work-charged, daily wage workers and employees working on 89 days/ad hoc/temporary basis and as the Municipal Council had already passed a resolution 15.03.2000 (Annexure P-2) regarding absorbing the petitioners, therefore, the case of the petitioners is squarely covered under the policy instructions dated 15.12.2006. He has further submitted that right from the date of their appointments with respondent No.5 and even after their absorption by respondent No.4, the petitioners had continuously performed their duties as Chowkidar on tubewells. Therefore, the petitioners are entitled for regularization for their services.

8. Per contra, learned State counsel and learned Senior counsel for respondents No.3 & 4, while referring to the averments made in the written statements, have vehemently opposed the claim of



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regularization of the services of the petitioners and submitted that the case of the petitioners is not covered under the policy instructions dated 15.12.2006, as the said instructions have been issued only qua daily wagers, work charged and employees working on 89 days/ad hoc/ temporary basis, whereas the petitioners were appointed on contractual basis. They have further submitted that, in any event, the petitioners were appointed afresh on a contractual basis by the Municipal Council, Garhshankar w.e.f. 01.01.2000 and continued to serve till 31.08.2007. Therefore, they did not complete the requisite qualifying service of ten years and are not entitled for regularization.

9. I have heard learned counsel for the parties and perused the relevant documents.

10. Admittedly, petitioner No.1 was appointed on 01.11.1991 and petitioner No.2 was appointed on 01.04.1992 on the post of Chowkidar on contract basis by respondent No.5 for the purpose of looking after and running the tubewells which were installed in Ward No.2 as well as Birampur Road, Garhshankar. Thereafter, vide communication dated 01.01.2000 (Annexure P-1), respondent No.5 handed over the abovesaid tubewells along with the staff, to the Municipal Council, Garhshankar and they worked with Municipal Council, Garhshankar till 31.08.2007. The grievance of the petitioners is that since they continuously worked with respondent No.5 and thereafter, with respondent No.4 for about 15 years, therefore, their case is covered under the policy instructions dated 15.12.2006 issued by the



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Punjab Government and they are entitled for regularization, however, respondent No.4 had failed to consider their case for regularization.

11. There is no dispute that the petitioners were working with Municipal Council, Garhshankar on contractual basis. A contractual engagement by its very nature carries no promise of permanence. It begins with consent and ends by the terms to which the parties have bound themselves. When the tenure expires, the engagement ceases and that cessation does not amount to termination but simply the operation of the contract. Further, it is well settled proposition of law that contractual employee has no legal right to continue in service or seek permanency.

12. The Hon'ble Supreme Court in the case of ***Dhananjay Vs. Chief Executive, Zila Parishad, Jalna : 2003(1) SCT 822*** has held as under: -

“4. It is not in dispute that the appellant was appointed on a temporary basis; his services could be terminated without notice and without assigning any reason within a period of one year. In fact, his services were terminated within a period of one year under Rule 5(1) of the Central Civil Services (Temporary Service) Rules. The only question that is required to be answered is: whether the order of termination of services is simpliciter or is punitive attaching stigma to the appellant. No doubt in the order of suspension passed on July 1, 1987 keeping the appellant under suspension, an enquiry was directed against the appellant in regard to the alleged misconduct. But, no enquiry was held pursuant to the said order, having regard to the Government Order dated November 24, 1987 that service of a temporary servant could be discharged within



a period of one year without keeping him under suspension and without holding an enquiry. Although initially the enquiry was ordered, in view of this Government Order, the respondent did not proceed to hold any enquiry. In the criminal case filed against the appellant, he was acquitted.

5. *Para 2 of the impugned order of termination of services makes a mention of the fact that the appellant was suspended. The learned counsel for the appellant, pointing out this paragraph, submitted that it would cast stigma on the appellant and it would adversely affect his prospects. The High Court, in dismissing the writ petition, relied on the decision of this Court in the case of Bihari Lal aforementioned. Para 5 of the said judgment reads thus:*

"5. It is true that the respondent was acquitted by the criminal court but acquittal does not automatically give him the right to be reinstated into the service. It would still be open to the competent authority to take decision whether the delinquent government servant can be taken into service or disciplinary action should be taken under the Central Civil Service (Classification, Control & Appeal) Rules or under the Temporary Service Rules. Admittedly, the respondent had been working as a temporary government servant before he was kept under suspension. The termination order indicated the factum that he, by then, was under suspension. It is only a way of describing him as being under suspension when the order came to be passed but that does not constitute any stigma. Mere acquittal of government employee does not automatically entitle the government servant to reinstatement. As stated earlier, it would be open to the appropriate competent authority to take a decision whether the



enquiry into the conduct is required to be done before directing reinstatement or appropriate action should be taken as per law, if otherwise, available. Since the respondent is only a temporary government servant, the power being available under Rule 5(1) of the Rules, it is always open to the competent authority to invoke the said power and terminate the services of the employee instead of conducting the enquiry or to continue in service a government servant accused of defalcation of public money. Reinstatement would, be a charter for him to indulge with impunity in misappropriation of public money."

6. *If we look to the paragraph extracted above, it becomes clear that the facts of that case are almost similar to the facts of the present case. Although a distinction was sought to be made to contend that judgment has no application to the facts of the present case, we are unable to agree with the submission. Merely because the appellant was kept under suspension, that, by itself, is not indicative that the respondent had intended from the beginning to get rid of the services of the appellant by holding an enquiry. It is not the case of the appellant that inspite of the fact that his services were needed, the order of termination of services was passed. Even though the appellant was acquitted in the criminal case launched against him on the basis of the complaint made by the respondent, is also not a factor to indicate that the respondent wanted to take action against the appellant on his misconduct to remove him from service.*

7. *In our view, having regard to the facts and circumstances of the case, it is not possible to hold that the order of termination of services was not simpliciter or the*



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misconduct was the foundation for passing such order. Even if an enquiry was ordered to find out or verify the truth or otherwise and the allegation by itself does not establish that the respondent had any such design to somehow remove the appellant from services, in our view, the High Court was right in dismissing the writ petition in the light of the facts of the present case and the judgment of this Court, referred to above.”

13. Further, the Hon’ble Supreme Court in **Yogesh Mahajan Vs. Professor R.C. Deka : 2018(1) S.C.T. 690** has held as under: -

“6. It is settled law that no contract employee has a right to have his or her contract renewed from time to time. That being so, we are in agreement with the Central Administrative Tribunal and the High Court that the petitioner was unable to show any statutory or other right to have his contract extended beyond 30th June, 2010. At best, the petitioner could claim that the concerned authorities should consider extending his contract. We find that in fact due consideration was given to this and in spite of a favourable recommendation having been made, the All India Institute of Medical Sciences did not find it appropriate or necessary to continue with his services on a contractual basis. We do not find any arbitrariness in the view taken by the concerned authorities and therefore reject this contention of the petitioner.

7. We are also in agreement with the view expressed by the Central Administrative Tribunal and the High Court that the petitioner is not entitled to the benefit of the decision of this Court in Uma Devi. There is nothing on record to indicate that the appointment of the petitioner on a contractual basis or on an ad hoc basis was made in accordance with any regular procedure or by following the necessary rules. That being so, no right accrues in favour



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of the petitioner for regularisation of his services. The decision in Uma Devi does not advance the case of the petitioner.

8. Insofar as the final submission of the petitioner to the effect that some persons were appointed as Technical Assistant (ENT) in May 2016 is concerned, we are of the view that the events of 2016 cannot relate back to the events of 2010 when a decision was taken by the All India Institute of Medical Sciences not to extend the contract of the petitioner. The situation appears to have changed over the last six years and the petitioner cannot take any advantage of the changed situation. There is no material on record to indicate what caused the change in circumstances, and merely because there was a change in circumstances, does not mean that the petitioner is entitled to any benefit. On the other hand, it might have been more appropriate for the petitioner to have participated in the walk-in interview so that he could also be considered for appointment as Technical Assistant (ENT), but he chose not to do so.”

14. The Hon’ble Supreme Court in ***Indian Drugs & Pharmaceuticals Limited Vs. Workmen, Indian Drugs & Pharmaceuticals Limited : 2007(1) S.C.T. 214*** has held that a daily rated or casual worker is only a temporary employee and has no right to continue in service. The operative part of the said judgment is reproduced as under:-

“13. It may be mentioned that a daily rated or casual worker is only a temporary employee, and it is well settled that a temporary employee has no right to the post vide State of Uttar Pradesh & Anr. v. Kaushal Kishore Shukla, 1991(1) SCT 760 (SC) : 1991(1) SCC 691. The term



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'temporary employee' is a general category which has under it several sub-categories e.g. casual employee, daily rated employee, ad hoc employee, etc.

14. The distinction between a temporary employee and a permanent employee is well settled. Whereas a permanent employee has a right to the post, a temporary employee has no right to the post. It is only a permanent employee who has a right to continue in service till the age of superannuation (unless he is dismissed or removed after an inquiry, or his service is terminated due to some other valid reason earlier). As regards a temporary employee, there is no age of superannuation because he has no right to the post at all. Hence, it follows that no direction can be passed in the case of any temporary employee that he should be continued till the age of superannuation."

15. Further reference may be made to the judgment of the Hon'ble Supreme Court passed in ***Secretary, State of Karnataka and others V. Umadevi and others, 2006(2) S.C.T. 462***. The relevant portion from the said judgment is as under:-

"34.Merely because, an employee had continued under cover of an order of Court, which we have described as 'litigious employment' in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not



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required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates.

35 to 37. XXXX XXXX XXXX

38. *When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post.”*

16. The Hon’ble Supreme Court in ***Union of India and others Vs. Ilmo Devi and others : 2021(4) SCT 312*** has held that part-time contingent employees cannot claim regularization as a matter of right, nor can they seek parity in salary with regular government employees based on the principle of equal pay for equal work. The relevant paras



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of the said judgment are as under :-

“xx xx xx xx xx

8.5 *Even the regularization policy to regularize the services of the employees working on temporary status and/or casual labourers is a policy decision and in judicial review the Court cannot issue Mandamus and/or issue mandatory directions to do so. In the case of R.S. Bhonde and Ors. (supra), it is observed and held by this Court that the status of permanency cannot be granted when there is no post. It is further observed that mere continuance every year of seasonal work during the period when work was available does not constitute a permanent status unless there exists a post and regularization is done.*

8.6 *In the case of Daya Lal & Ors. (supra) in paragraph 12, it is observed and held as under:-*

“12. We may at the outset refer to the following well-settled principles relating to regularisation and parity in pay, relevant in the context of these appeals:

(i) The High Courts, in exercising power under Article 226 of the Constitution will not issue directions for regularisation, absorption or permanent continuance, unless the employees claiming regularisation had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant posts. The equality clause contained in Articles 14 and 16 should be scrupulously followed and Courts should not issue a direction for regularisation of services of an employee which would be violative of the constitutional scheme. While something



that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularised, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularised.

(ii) Mere continuation of service by a temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be “litigious employment”. Even temporary, ad hoc or daily-wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularisation, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularisation in the absence of a legal right.

(iii) Even where a scheme is formulated for regularisation with a cut-off date (that is a scheme providing that persons who had put in a specified number of years of service and continuing in employment as on the cut-off date), it is not possible to others who were appointed subsequent to the cut-off date, to claim or contend that the scheme should be applied to them by extending the cut-off date or seek a direction for framing of fresh schemes providing for successive cut-off dates.



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(iv) *Part-time employees are not entitled to seek regularisation as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularisation or permanent continuance of part-time temporary employees.*

(v) *Part-time temporary employees in government-run institutions cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. The right to claim a particular salary against the State must arise under a contract or under a statute.*

[See State of Karnataka v. Umadevi (3) [(2006) 4 SCC 1], M. Raja v. CEERI Educational Society [(2006) 12 SCC 636], S.C. Chandra v. State of Jharkhand [(2007) 8 SCC 279], Kurukshetra Central Coop. Bank Ltd. v. Mehar Chand [(2007) 15 SCC 680] and Official Liquidator v. Dayanand [(2008) 10 SCC 1].

8.7 Thus, as per the law laid down by this Court in the aforesaid decisions part-time employees are not entitled to seek regularization as they are not working against any sanctioned post and there cannot be any permanent continuance of part-time temporary employees as held. Part-time temporary employees in a Government run institution cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work.



8.8 Applying the law laid down by this court in the aforesaid decisions, the directions issued by the High Court in the impugned judgment and order, more particularly, directions in paragraphs 22 and 23 are unsustainable and beyond the power of the judicial review of the High Court in exercise of the power under Article 226 of the Constitution. Even otherwise, it is required to be noted that in the present case, the Union of India/Department subsequently came out with a regularization policy dated 30.06.2014, which is absolutely in consonance with the law laid down by this Court in the case of Umadevi (supra), which does not apply to the part-time workers who do not work on the sanctioned post. As per the settled preposition of law, the regularization can be only as per the regularization policy declared by the State/Government and nobody can claim the regularization as a matter of right dehors the regularization policy. Therefore, in absence of any sanctioned post and considering the fact that the respondents were serving as a contingent paid part-time Safai Karamcharies, even otherwise, they were not entitled for the benefit of regularization under the regularization policy dated 30.06.2014.”

17. Furthermore, the contractual appointment of the petitioners was made not in conformity with Articles 14 & 16 of the Constitution of India and there is no sanctioned post against which the claim of the petitioners for regularization can be considered.

18. In view of the above, I do not find any merit in the instant writ petition, especially when the petitioners were employed on contractual basis.

19. Consequently, the present writ petition is dismissed.



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20. Since the writ petition is dismissed, nothing survives in the contempt petition and the same is disposed of accordingly.
21. Pending application(s), if any, also stand(s) disposed of accordingly.

13.07.2026
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No