

CWP-22747-2017 (O&M) and connected cases

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-22747-2017 (O&M)
Date of Decision:-05.08.2025

Dildeep Singh and Others

...Petitioners

Versus

Municipal Corporation Chandigarh and Others

...Respondents

And

Sr. No.	Case No.	Petitioner(s)	Respondent(s)
2.	CWP-1174-2018	Narinder Kumar and Another	Municipal Corporation Chandigarh and Others
3.	CWP-26106-2017 (O&M)	Sourav Gautam and Another	Municipal Corporation Chandigarh and Others

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Rajiv Atma Ram, Sr. Advocate with
Ms. Shreya Kaushik, Advocate for the petitioners
in CWP-22747-2017.

Mr. Ajaivir Singh, Advocate
for the petitioners in
CWP-1174-2018 and CWP-26106-2017.

Mr. Suman Jain, Advocate
for respondents No.1 to 3 in CWP-22747-2017.

Mr. Abhinav Sood, Advocate and
Mr. Nitesh Jhahhria, Advocate
for respondents-UT Chandigarh
in CWP-22747-2017 and CWP-26106-2017.

JAGMOHAN BANSAL, J. (ORAL)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from CWP-22747-2017.

2. The petitioners through instant petition under Article 226/227 of the Constitution of India are seeking setting aside of communication/order dated 09.02.2017 whereby respondent-Chandigarh Administration has rejected resolution of General House of Municipal Corporation (in short “Corporation”). They are further seeking direction to respondents to consider their claim in terms of resolution dated 28.07.2016 passed by General House of the Corporation. They are also seeking direction to respondents to consider them as per policy, if any and in absence of policy, to frame the policy and consider them for regularization.

3. The Corporation vide different advertisements invited applications for the post of Junior Engineers. The appointment was to be made on contractual basis. Pursuant to advertisement, the petitioners applied for the post. In the advertisement age and qualification was prescribed. The relevant extracts of the advertisement prescribing qualification are reproduced as below:-

<i>Sr. No.</i>	<i>Category of Post</i>	<i>No. of Posts</i>	<i>Eligibility</i>	<i>Age Limit</i>	<i>Pay</i>
xxxxx	xxxxx	xxxxx	xxxxx	xxxxx	xxxxx
2.	<i>Junior Engineer (P.H.)</i>	<i>08 Nos.</i>	<i>Diploma in Civil Engineering from a recognized University Institute or equivalent</i>	<i>Upto 35 Years</i>	<i>As per norms of Chandigarh Admn./Corporatio n at fixed salary of Rs.10,400/- p.m.</i>

4. The respondent scrutinized applications with testimonials and invited candidates for interview. The petitioners came to be selected.

Few petitioners joined service in 2007 and remaining either in 2008 or 2009 or 2010. In this way, all the petitioners joined service during 2007 to 2010. The relevant extracts of appointment letter of one candidate read as:-

“Subject: Appointment as Junior Engineer (Public Health) on contractual Basis in Municipal Corporation Chandigarh.

You are hereby offered an appointment to the post of Junior Engineer (Public Health) on contractual basis for a period of six months on payment of consolidated contractual amount @ Rs.10400/- per month from the date you assume the charge of the post on the following terms and conditions:

- 1. The contract can be terminated at any time without assigning any reason and prior notice.*
- 2. You will have to execute an agreement before joining this assignment copy of agreement proforma enclosed.*
- 3. This appointment will not confer any right on your part for seeking any permanent appointment in Municipal Corporation, Chandigarh.*
- 4. You would be required to work during the normal working hours of the office. But Municipal Corporation reserves the right to extend your working hours or you may be called on holidays if required.*
- 5. You may be transferred to any other department, office, service center or any other concerned department of the Municipal Corporation.*
- 6. That before leaving the service, the official will hand over all equipment documents and technical details to the office in his / her custody or dealt or held by the official during the employment period.*
- 7. That there shall be no increase in consolidated contractual amount and you will not be entitled to any increment or other allowance etc.*

8. *That the appointment shall stand terminated on completion of six months period from the date of joining without any formal separate orders.*
9. *That the service rendered on contract basis shall not count towards the benefit of pension or gratuity etc.*
10. *That no official accommodation shall be provided to you.*
11. *That no leave of any kind shall be admissible except gazette holidays, however, you may avail one-day casual leave per month.*
12. *That you will not divulge/pass on any information, knowledge, record of the office to any person which may be in possession of official or from the office where you are working.*
13. *That you will not take part in any demonstration/agitation or election etc. and would not indulge in such activities, which may harm the interest of Municipal Corporation.”*

5. The respondent-Corporation in its meeting dated 26.10.2012 resolved that Mayor would constitute a committee for the regularization of contractual employees and relaxation of their age. The Committee was formed to consider claim of contractual employees on 04.12.2012 which never submitted its report.

6. The Punjab Government issued regularization policy vide instructions dated 18.03.2011 whereby it was provided that services of employees who have completed three years' service on contract basis would be regularized.

7. The Corporation floated advertisement dated 28.12.2012 inviting applications for direct recruitments of Junior Engineers on regular basis. In the advertisement maximum prescribed age was 25

years though in the earlier advertisements, whereby the petitioners were appointed, maximum age was 35 years. They preferred *CWP No.1703 of 2013* before this Court assailing advertisement. During the pendency of said petition, the respondent informed that advertisements and selection process have been scrapped.

8. The petitioners filed multiple representations seeking regularization. The Corporation in this meeting dated 10.10.2014 resolved to regularize contractual employees. The Corporation vide communication dated 28.07.2016 referred the matter to Chandigarh Administration for approval. The relevant extracts of the communication dated 28.07.2016 are reproduced as below:-

“The matter regarding regularization of contractual employees was again discussed in the General House of Corporation in its meeting held on 28-7-2014 and recommended the regularization of contractual employees as under:

"The house considered and approved the regularization of B, C & D category of contractual employees of Municipal Corporation, subject to the following conditions:-

- 1. That the sanctioned post are available against which the contractual persons are to be regularized.*
- 2. That he/she fulfills the requisite qualifications as per the recruitment rules notified by the MCC for the relevant post.*
- 3. That he/she will be given initial of the pay scale and grade pay+ allowance attached with the post.*
- 4. That the work and conduct of the employees for the last five year is satisfactory.*

5. *That no departmental vigilance/criminal case is pending or likely to be contemplated against on the date of his/her regularization.*
6. *That no benefit will be permissible for the service rendered on the contract basis.*
7. *That no seniority or pay fixation will be permissible for the service rendered on contract basis.*
8. *That the character antecedents on verification are found satisfactory.*
9. *That he/she will be governed by the CRF scheme as applicable to the other employees of the MCC.*
10. *That he/she is declared medically fit by the authority presented by MC, Chandigarh provided he/ she not produced such a certificate at the time of contractual appointment."*

It was further resolved that posts of the contractual employees be kept held in abeyance among the sanctioned posts which are still under consideration of the Administration."

The approval of the resolution passed by the General House of the Corporation, is required to be approved by the Chandigarh Administration, which has not been approved.

It is also pertinent to mention here that two different Civil writ petition Nos. CWP No 1703 of 2013 titled as Dildeep Singh and others V/s Chd., Admn., & Ors. and CWP No 1704 of 2013 titled as Narinder Kumar and others V/s MCC & Ors. filed by the contractual employees (Es/Jr. DM) of MCC for regularization of their services which are pending before the Hon'ble Court of Punjab and Haryana at Chandigarh. The reply to the both writ petitioners stand already filed in the court by this office. The Hon'ble Court has not passed any stay order in both

the cases. The next date is fixed for 16-9-2016 and as such, the matter is sub-judice in the Hon'ble High Court."

9. The Corporation vide communication dated 03.01.2017 requested the Chandigarh Administration to take final decision with respect to resolution dated 26.10.2012. The Chandigarh Administration vide communication dated 09.02.2017 rejected resolution of the Corporation on the ground that it is not in accordance with policy/instructions of the Chandigarh Administration. Letter dated 09.02.2017 is reproduced as under:-

"To Chandigarh, dated 09.02.2017
The Commissioner
Municipal Corporation,
Chandigarh.
Subject: Regarding regularization of services of Jr.
Draftsman working on contract basis in the
MC, Chandigarh for the last 8 years.
Kindly refer to your proposal no.
CMC/Estt/E-IV/2016/5305 dated 28.07.2016 and
your memo No. CMC/Estt/E-I/2017/38 dated
03.01.2017, on the subject cited above.
In this regard, the proposal was examined
and opinion of the Personnel Department, UT
Chandigarh vide U.O No.28/54-IH(7)-2017/1704
dated 27/1/2017 has been obtained and is
reproduced below.
"A.D is informed that Department of
Personnel have not issued any policy
instructions for regularization of
service/absorption of contractual, adhoc, DC
rates employees working in Chandigarh
Administration. Further rules/instructions
issued by the Government of Punjab which
does not fall within the ambit of conditions of

service including the policy instructions relating to regularization of services of contractual/outsourced employees are not applicable in Union Territory, Chandigarh."

In view of the above, the proposal for regularization of services of staff appointed on contract in the Municipal Corporation, Chandigarh, based on the resolution of General House of Municipal Corporation Chandigarh is hereby reject, being not in accordance with the policy/instructions of the Chandigarh Administration."

10. In view of order dated 09.02.2017 of Chandigarh Administration, CWP-1703-2013 was disposed of vide order dated 26.09.2017 reserving right of the petitioners to challenge the validity of decision. During the pendency of aforesaid writ petition, the respondent vide advertisement dated 05.09.2017 again invited applications for the post of Junior Engineer on regular basis. Few candidates were selected pursuant to second advertisement.

11. As per documents produced during the course of hearing, there are total 121 posts of Junior Engineers in 3 Engineering Wings of the Corporation. 85 Posts are earmarked for direct recruitment and 36 through promotion. At present, 16 seats under direct recruitment and 22 seats under promotional quota are lying vacant. Most of the petitioners are part of Public Health Wing of the Corporation and in the said Wing 5 posts under direct quota and 13 under promotional quota are lying vacant. The petitioners are forming part of already filled posts. There are 4 posts which are occupied by persons engaged through outsource.

12. The respondent in 2012 framed regulations which are governing service of its employees. As per the said regulations, post of

Junior Engineer is Group-B post. 70% posts are earmarked for direct recruitment and 30% by promotion. Candidates have to be recruited by Departmental Promotion Committee, meaning thereby, appointment is neither made by UPSC nor any Recruitment Board.

13. Mr. Rajiv Atma Ram, Senior Advocate for the petitioner submits that petitioners were appointed against advertisement. Duly prescribed procedure was followed. Several candidates participated in the selection process. The respondent after scrutiny of documents and conducting interview selected the petitioners. They are working since 2007-10 without interruption. They are not involved in any criminal case. No vigilance enquiry is pending against them. The UT Administration has framed regularization policy in 2015 and petitioners being Class-C employees are covered by said policy. The UT Administration has made wrong statement to the effect that there is no policy of regularization. The Corporation has followed Rules of the State of Punjab which in 2011 framed regularization policy. As per 2011 policy of the State of Punjab, petitioners deserve to be regularized. It is not a case of backdoor entry. The respondent cannot rely upon judgment of Hon'ble Supreme Court in *State of Karnataka Vs. Uma Devi and Ors., (2006) 4 SCC 1*. Supreme Court recently in *Jaggo v. Union of India and others, 2024 SCC OnLine SC 3826* has clearly held that State cannot continue to make appointment on adhoc or temporary basis. State is bound to make regular appointments. Continuation of employees on contract basis for couple of years amounts to exploitation. The petitioners at the time of appointment were Group-C employees though post of Junior Engineer in 2012 was

declared as Group-B. The Corporation multiple times passed resolution to the effect that petitioners ought to be regularized. It is UT Administration which is denying claim of petitioners on the ground that there is no policy of regularization.

14. *Per contra*, learned counsel for the respondents submit that instructions issued vide letter No.28/64-IH(7)-2015/5459 dated 13.03.2015, No.28/64-IH(7)-2015/14040 dated 08.07.2015 and No.28-64-IH(7)-2019/10037 dated 04.07.2019 regarding regularization of daily wager/work charged employees were issued in respect of daily wager/work charged employees who were engaged before 31.12.1996, working under the departments of the Chandigarh Administration in pursuance of the orders dated 03.04.2014 passed by the Hon'ble Supreme Court in Civil Appeal No.6779 of 2009 titled as "***UT Chandigarh & Anr. Vs. Sampat & Ors.***" The Hon'ble Supreme Court vide its judgment dated 10.04.2006 in ***Umadevi (supra)*** and judgment dated 03.08.2010 in "***State of Karnataka Vs. M.L. Kesari***" (2010) 9 SCC 247 has decided the matter with regard to regularization. The said judgments have further been clarified by the Department of Personnel & Training, Government of India vide their OM bearing No.49014-7-2020-Estt. (C) dated 07.10.2020. After implementation of notification dated 29.03.2022 issued by Ministry of Home Affairs, Government of India, the Chandigarh Administration follows Central Govt. rules. Whenever the Central Government frames any policy/rules regarding regularization policy for Contractual employees, the same will be considered by the Chandigarh Administration. The School Lecturers filed Court cases for regularization

of their services. The Hon'ble Supreme Court of India vide its judgment dated 06.05.2009 titled as "***Harinder Kaur & Ors. Vs Union of India***", (2009) 13 SCC 90 has dismissed plea of contract teachers for regularization of their services. This Court in "***Sunil Kumar & Others Vs. State of Punjab and others***" CWP No.3730 of 2017 (O&M) vide judgment dated 13.09.2018 has declined to order to regularize the contractual employees. This Court in "***Bipin Sher Singh Vs. Union of India and others***", CWP No.9322 of 2024 vide judgment dated 25.04.2024 has dismissed plea of contractual teachers under the Education Department for regularization of their services.

There is no regularization policy and this fact has been reiterated in letter dated 15.11.2023 of Chandigarh Administration. The petitioners have entered into contracts which underscore that their services are on contract basis. The respondent time to time has extended period of contract and petitioners have happily accepted the terms, thus, they cannot turn around. They in support of their submissions cited judgments in ***Kamaljit Singh And Ors. Vs State Of Punjab And Anr., CWP No. 28951 of 2017; Union Of India And Ors. Vs Ilmo Devi And Ors., (2021) 20 SCC 290; Mukesh Kumar And Ors. Vs State Of Haryana And Ors., CWP No. 21088 OF 2021.***

15. I have heard learned counsel for the parties and perused the record of the case.

16. The conceded position emerging from record is that petitioners are holding diploma in engineering. They at present are working as Junior Engineer with respondent-Corporation. They were

appointed during 2007-2010 against advertisements. They were subjected to interview and selected against sanctioned posts lying vacant. Even today few posts are lying vacant out of sanctioned posts. They are working since 2007-10 without any interruption. There is no stay in their favour. The Corporation in 2012 framed regulations governing service conditions of its employees. The post of Junior Engineer prior to 2012 was Group-C and as per 2012 Regulations is Group-B. They are getting consolidated salary. They are not facing any vigilance enquiry or criminal case. The Corporation, since 2012, is of the opinion that petitioners should be regularized. The only hurdle which is coming in the way of Corporation is approval of Administration.

17. Different High Courts as well as Hon'ble Supreme Court prior to 2006 in many cases directed States/Union of India to regularize part time/work charged/adhoc/contractual/daily wage employees. The foundation of all the judgments was length of service. In 2006, a Constitution Bench in *Uma Devi (supra)*, adverted to the question of regularization of temporary/part time/adhoc/daily wage employees. The Apex Court deprecated practice of employing temporary/part time or contractual employees though it held that in exigency, State can make appointment on contract basis. The Court held that regularization of contractual or part time employees would amount to legalization of backdoor entrants. The regularization of part time employees is violative of Articles 14, 16 & 309 of the Constitution of India. The employees who are working on daily wage cannot claim discrimination on the ground that they have been paid less than regularly recruited employees. The High

Court should not ordinarily issue directions for absorption, regularization or continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. The High Court is not justified in issuing interim orders in such cases. There is no fundamental or vested right in those who have been employed on daily wages or temporary or contract basis to claim that they have a right to be absorbed in service. Merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. Merely because an employee had continued under cover of an order of the Court, he would not be entitled to any right to be absorbed or made permanent in the service. It would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible. If the contractual employment is declared void on the ground that the parties were not having equal bargaining power, it too would not enable the Court to grant any relief to that employee. The claim acquired by him in the post on which he is temporarily employed or the interest in that post cannot be considered to be of such a magnitude so as to enable the giving up of the procedure established for making regular appointments to available posts in the services of the State.

18. A two Judge Bench of Apex Court in ***Union of India v. Ilmo Devi, (2021) 20 SCC 290*** considered question of regularization of part time employees of Union of India. The Apex Court while setting aside judgment of this Court has held that High Court in exercise of its writ jurisdiction cannot ask State to regularize part time employees. The Court has further held that part time employees cannot claim pay parity with regular employees. The Court has noticed judgment of this Court in Para 3.4 and returned findings in Para 16-19 which are reproduced as below:

“3.4. By the impugned common judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144], the High Court has disposed of the aforesaid writ petitions with the following directions : (Ilmo Devi case [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] , SCC OnLine P&H paras 22-23)

“22. We, thus, direct the petitioner authorities to revisit the whole issue in its right perspective and complete the exercise to reformulate their policy and take a decision to sanction the posts in phased manner within a specified time schedule. Let such a decision be taken within a period of six months from the date of receiving a certified copy of this order.

23. Till the exercise as directed above, is undertaken, the respondents shall continue in service with their current status but those of them who have completed 20 years as part-time daily wagers, shall be granted “minimum” basic pay of Group “D” post(s) w.e.f. 1-4-2015 and/or the date of completion of 20 years contractual service, whichever is later.”

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16. Thus, as per the law laid down by this Court

in the aforesaid decisions part-time employees are not entitled to seek regularisation 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.

17. *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 [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144], more particularly, directions in paras 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 regularisation policy dated 30-6-2014, which is absolutely in consonance with the law laid down by this Court in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1], 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 regularisation can be only as per the regularisation policy declared by the State/Government and nobody can claim the regularisation as a matter of right dehors the regularisation 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 regularisation under the regularisation policy dated 30-6-2014.*

18. *Though, we are of the opinion that even the direction contained in para 23 for granting minimum basic pay of Group 'D' posts from a particular date to*

those, who have completed 20 years of part-time daily wage service also is unsustainable as the part-time wagers, who are working for four to five hours a day and cannot claim the parity with other Group 'D' posts. However, in view of the order passed by this Court dated 22-7-2016 [Union of India v. Ilmo Devi, 2016 SCC OnLine SC 1933] while issuing notice in the present appeals, we are not quashing and setting aside the directions contained in para 23 in the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] so far as the respondents' employees are concerned.

19. In view of the above and for the reasons stated above, both the appeals succeed. The impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] passed by the High Court and, more particularly, the directions contained in paras 22 and 23 in the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] are hereby quashed and set aside. However, it is observed that quashing and setting aside the directions issued in terms of para 23 in the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] shall not affect the case of the respondents and they shall be entitled to the reliefs as per para 23 of the impugned judgment and order [Union of India v. Ilmo Devi, 2015 SCC OnLine P&H 5144] passed by the High Court."

19. A two Judge bench of Supreme Court in ***Nihal Singh v. State of Punjab, (2013) 14 SCC 65*** had the occasion to consider question of regularization of Special Police Officers (SPOs) appointed under Section 17 of Police Act, 1861. A Division Bench of this Court relying upon an earlier judgment of this court dismissed petitions of 20 SPOs and matter travelled to Apex Court which turned down claim of the respondent-State of Punjab that there are no sanctioned posts to absorb appellants despite

their service of decades. The Court held that State cannot take undue advantage of judgment of Supreme Court in *Uma Devi (supra)*. The said judgment cannot become licence for exploitation by the State. After availing services for decades, it is not justified for the State to take a defence that there are no sanctioned posts to absorb the appellants.

20. In *Narendra Kumar Tiwari v. State of Jharkhand and others, (2018) 8 SCC 238*, the Apex Court dealt with denial of regularization and held that State of Jharkhand has continued with irregular appointments for almost a decade after decision in *Uma Devi's case (supra)* and it was nothing but exploitation of the employees by not giving them their benefits. Resultantly, it was held that if they had completed 10 years of service, they were to be regularized unless there is valid objection to their regularization. Resultantly, the order of the High Court was set aside which had itself placed reliance upon *Uma Devi (supra)*.

21. In “*State of Karnataka Vs. M.L. Kesari*” (2010) 9 SCC 247, the Supreme Court noticed misuse by the State and its agencies, non-compliance of order of the Apex Court and denying benefits to the employees. The Court noticed that the object as such was two folds. Firstly, those persons who had put in more than 10 years of services were to be considered for regularization in view of the long service. Secondly, it was to ensure that departments do not perpetuate the practice of employing persons on daily wage, adhoc or casual basis. It was held that persons who had worked for more than 10 years on 10.04.2006 were entitled for regularization and necessary directions were issued in the said

case and those not entitled because of lack of educational qualifications were to be regularized on a lower post.

22. Supreme Court recently in ***Jaggo v. Union of India and others, 2024 SCC OnLine SC 3826***, noticing judgment of Constitutional Bench in ***Uma Devi (supra)*** has held that no employee can be kept temporary for an indefinite period. An employee has right to be considered for regularization. The relevant extracts of the judgment read as:

“20. It is well established that the decision in Uma Devi (supra) does not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment sought to prevent backdoor entries and illegal appointments that circumvent constitutional requirements. However, where appointments were not illegal but possibly “irregular,” and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a scenario demanding fair regularization. In a recent judgment of this Court in Vinod Kumar v. Union of India [(2024) 1 SCR 1230], it was held that procedural formalities cannot be used to deny regularization of service to an employee whose appointment was termed “temporary” but has performed the same duties as performed by the regular employee over a considerable period in the capacity of the regular employee. The relevant paras of this judgment have been reproduced below:

“6. The application of the judgment in Uma Devi (supra) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over a considerable period through continuous service. Their promotion was based on a specific notification for vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in the case of Uma Devi (supra).

7. The judgment in the case Uma Devi (supra) 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...”

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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.

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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.”*

23. The respondents are relying upon paras 20 and 22 of judgment of this Court in ***Sunil Kumar (supra)***. The said paragraphs read as:-

"20. As regard, the right of the contractual employees for regularization, having been appointed on a position even though advertised by public notices and in following the Rules but by advertising the nature of post to be "Contractual" would render numerous meritorious and deserving candidates to refrain from applying from such post awaiting to be selected on a 'permanent - 'quasi permanent' post. Hence, even in that process of selection even if the post is advertised for contractual period but by following criteria for recruitment as per Rules, there would be violation of Articles 14 and 16 of the Constitution it

such candidates are later on taken in the fold by "regularization". In such circumstances, the "exception"/"one time measure" as held in Uma Devi's case (Supra) becomes a rule, which cannot be permitted being not in public interest and not contemplated in service jurisprudence.

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22. Before parting with this order, this Court finds it appropriate to observe that State Government are time and again appointing contractual or ad-hoc who after completion of few years of service start claiming their regularization which is against the Article 14, 16 of the Constitution as well as mandate of Hon'ble Supreme Court. It has also been found that State Governments for their political gains and publicity regularize these employees by adopting one or another mean including introduction of legislation which is against the basic structure of our Constitution as Article 14 and 16 are part of basic structure of Constitution. In the present era where there is scarcity of public jobs, it is unfair and discrimination with others to allow backdoor entry. The Competent and more qualified people do not get opportunity to serve the state whereas incompetent and less qualified people are appointed.

The above practice of the State Government is to be deprecated and the State Government of Punjab, Haryana and UT Chandigarh Administration shall ensure that there are adequate checks and balances against such back door entries and the deserving candidates should find their way to the positions to be advertised even though on contractual or adhoc basis but through a defined criteria and process with meeting of the qualifications prescribed for such positions with adequate safeguards and defined clarity that such contractual employments do not entail any claim to regularization and continuation of service."

24. The respondents are further relying upon paragraphs No.5, 6 and 8 of judgment of this Court in ***Bipin Sher Singh (supra)*** which read as:-

“5. This Court has time and again observed that contractual appointments on permanent posts are not in consonance with the basic principles and ethos of the Constitution envisaged under Article 14 and 16. It deprives the qualified eligible candidates from participating in the selection process, and encourages back door entries. The UGC regulations of 2010 laid down the method and manner of selection of various teachers in the Universities and affiliated Colleges.

6. The State Government cannot be allowed to regularise teachers who have been appointed by back door method even if they have acquired qualifications later on as the others have been deprived from participating in the selection. One of us (HMJ Sanjeev Prakash Sharma), while sitting singly, has also passed a judgment in CWP No.23738-2011 passed in case titled as 'Garima and others Vs. State of Punjab and others' decided on 14.09.2023 with observation and held as under:-

"22. this Court does not find any reason to allow the State Govt. to regularize the respondents by adopting a course alien to the UGC Regulations of 2010. The respondents and similarly placed Asstt. Professors would, therefore, have to participate in the regular selection. It is, however, left open to the State to grant certain bonus marks for teaching experience gained by such adhoc Lecturers. It is always good to have experienced teachers. However, the level of education cannot be reduced in such a way as to lower down the overall standard of higher education. This Court has also perused the criteria which was adopted by the committee

formed for regularizing the adhoc Lecturers and finds that such criteria will open a precedent to encourage backdoor appointments. The method and manner of selection of the adhoc Lecturers cannot be said to be absolutely fair and transparent and, therefore, the same cannot be approved. Even though, the respondents may have been allotted the minimum of the pay scale and may also be receiving increments, then too they cannot be equated to Asstt. Professors appointed after undergoing regular selection in terms of UGC Regulations of 2010."

XXXX XXXX XXXX XXXX

8. *In view thereof, we are of the opinion that there is no right available to contractual employee to continue on the post and no right can be said to have been taken away if the respondents have decided to conduct regular selections. We are also of the opinion that the Chandigarh Administration should take steps for conducting regular selections at the earliest, preferably within a period of six months from today by issuing appropriate advertisement and inviting applications. Age relaxation may be granted to the persons, who have already been working with the Education Department on contract basis so that they may also participate in the selection process."*

25. The Hon'ble Supreme Court in "***Union of India Vs. K. Velajagan And Ors.***", 2025 SCC OnLine SC 837 decided on 04.02.2025 has observed that decision in ***Uma Devi (supra)*** cannot be used as a shield to justify exploitative engagements persisting for years without the employer undertaking legitimate recruitment process to deny relief of regularization.

26. Reading of afore-cited judgments leads to the conclusion that Courts have rejected plea of regularization because claimants were not recruited in accordance with procedure as contemplated by Article 14 and 16 of the Constitution. The Courts formed opinion that executive has made appointment of these employees without following procedure prescribed for regular appointment. On account of contractual/daily/ad hoc appointment, meritorious candidates do not participate and mediocre come forward. The executive in violation of procedure ensures backdoor entry of favourite and less meritorious candidates. The regularization of these backdoor entrants would encourage executive and jettison of rule of law as well as mandate of Articles 14 and 16 of the Constitution. Unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. The High Courts acting under Article 226 of the Constitution should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. It would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible. A total embargo on such casual or temporary employment is not possible, given the exigencies of administration and if imposed, would only mean that some people who at least get employment temporarily, contractually or casually, would not be getting even that employment when securing of

such employment brings at least some succour to them.

27. The States/U.T. have made hay from the findings of the Constitution Bench. They have started making appointment on contract/ad-hoc/temporary/part time basis in every department including education which is a character and nation building department. Many teachers appointed on contract basis are getting miniscule pay in comparison to regularly appointed peons. The exchequer is siphoned off for subsidies instead of appointing regular employees and paying regular pay scale. The Supreme Court, in case of exigencies, had permitted to make appointment on contract basis and did not permit States and its agencies to make it a routine practice. The Court had emphasized to make appointments in public employment after following procedure prescribed for regular recruitment and in accordance with mandate of Articles 14 and 16 of the Constitution of India. Intention and imprimatur of the court was to inhibit and discourage backdoor entry. The Court did not permit to make contractual recruitment for infinity and pay minimum of pay scale. The State being a model employer neither can exploit its citizen nor take advantage of mass unemployment. It is expected to make recruitment in accordance with prescribed procedure and on permanent basis. It cannot keep hanging sword of termination.

28. The claim of the petitioners needs to be examined in the light of aforesaid judgments. The petitioners are not backdoor entrants. Their appointment was made after following procedure. There were advertisements. The petitioners filed applications. They were subjected to interview. In the advertisements, maximum age as well as qualification

was prescribed. No candidate was selected who was either more than 35 years or not possessing requisite qualification. The appointments were made against sanctioned posts. They are uninterruptedly working with Corporation since 2007. The Corporation since 2012 is of the opinion that petitioners should be regularized. The Corporation has also formed an opinion that petitioners are having rich experience of the Corporation and it is in the interest of Corporation to regularize them. The Corporation depicting its incessant stand recently vide letter dated 16.06.2025 has requested the Administration to regularize the petitioners. Extracts of said letter read as:-

“To

The Secretary Local Government,

Chandigarh Administration

Memo No.CMC/Estt./E-IV/2025/2159966

Date, Chandigarh the 16-6-25.

Subject: Job protection and regularization of contractual employees working against vacant sanctioned posts pursuing / working more than 10 years likewise adjoining states of Punjab, Haryana and New Delhi in Municipal Corporation, Chandigarh.

Reference your office letter No. C-17695/D-1214887-Fli(9)- 2023/16834 dated 15.11.2023 on the subject cited above. (copy enclosed)

It is to intimate the General House of the Municipal Corporation, Chandigarh in its 348th meeting held on 30.04.2025 vide Table Agenda Item No. 348.4 has passed the Table Agenda regarding job protection and regularization of contractual employees working against vacant sanctioned posts pursuing/working for more than 10 years likewise adjoining states of Punjab, Haryana and

New Delhi in Municipal Corporation, Chandigarh. The minutes of the meeting are as under:-

" The House approved the table agenda to consider the request for job protection and regularization of contractual employees working against vacant sanctioned posts pursuing/working for more than 10 years likewise adjoining states of Punjab, Haryana and New Delhi as a One-time measure as the condition of service/recruitment rules are in its transition phase from Punjab to Central Rules and New Recruitment Rules are being framed for the U.T., Chandigarh in lieu of implementation of notification of Government of India dated 29.03.2022."

Earlier the Local Government Department, Chandigarh Administration vide above mentioned reference has submitted that since the policy for regularization of contractual employees is not existing in the Chandigarh Administration, for the contractual employees working in various different departments of Chandigarh Administration, no such policy can be framed and extended to employees of MCC and the resolution passed by the MCC cannot be acceded to at this moment. However, as and when such policy is framed by the Chandigarh Administration, the same will be extended to the MCC employees also.

Therefore, it is requested to intimate the latest policy/instructions if any framed by the Chandigarh Administration for regularization of contractual employees, so that the same will be extended to the Municipal Corporation, Chandigarh contractual employees also.

This issues with the approval of the Commissioner, Municipal Corporation, Chandigarh.

DA/As above

Sd/-

Joint Commissioner-II

Municipal Corporation Chandigarh"

29. The Administration is accepting that there is policy of 2015 in force with respect to regularization of Group C & D employees. The administration is further conceding that daily wagers and casual workers may be regularized as per policy of 2015. It means Administration is conceding that daily wagers may be regularized if they belong to Group C or D. The petitioners are neither daily wagers nor Group C or D employees, thus, they cannot be regularized. The relevant extracts of 2015 Policy read as:

Keeping in view the recommendation of the Committee as well as the entire aspects of the matter, the Chandigarh Administration has decided to frame the policy scheme for regularization of the services of work-charged/daily wage employees working in various departments of Chandigarh Administration subject to the fulfilment of the following:-

- (1) In the light of the judgement of the Hon'ble Supreme Court of India in the case of U.T., Chandigarh & Anr. Vs. Sampat & Ors, the work-charged/daily wage employees working prior to 1992 shall be given the benefit as per CPWD Manual which includes pension also.*
- (2) The employees (Group 'C & 'D) shall be regularized to the extent of vacancies in the order of their length of service.*
- (3) To create permanent solution for the employees beyond sanctioned strength Administrative Department may move the proposal to Government of India to create posts as decided in para (ii) above.*
- (4) The work and conduct of the employee in the service rendered as daily wage/work charged should be satisfactory.*

(5) The medical fitness certificate and police verification should be done at the time of regular appointment.

(6) This letter will supersede all the previous instructions issued regarding regularization of services of daily wage/work charged employees.”

[Emphasis supplied]

30. The administration by claiming that daily wagers/work charged employees holding Group C or D post may be regularized is raising a very strange argument. This Court while adjudicating cases of State of Haryana as well Punjab has noticed that Group-D employees who are holding regular post are getting salary more than Group-B contractual employees. The same situation is in the present case. The petitioners are getting salary of Rs.69,000/- per month. They were appointed as Group-C employees and at present are Group-B. They are qualified engineers and working since 2007. There would be many Class-D or Class-C regular employees who must be getting salary more than petitioners. It is unethical, inequitable, unjustified, manifestly arbitrary and a paradox that Group-D employees on account of being regular are paid salary more than qualified and experienced ones holding Group B or C posts. This Court does not find it logical or reasonable to approve stand of the Administration that Group-D employees who are daily wagers may be regularized and paid salary more than Engineers who are working for more than a decade. This situation has arisen because Government as well as Courts have shown concern, sympathy and compassion for Class-D employees and Class B or C employees, who hail from lower

middle-class families, are ignored. Qualifications and competence are neglected. The case of petitioners is squarely covered by recent judgment of Supreme Court in *Jaggo (supra)*. In view of said judgment, reliance placed by respondents upon judgment of this Court is misplaced. It is apt to notice that during the course of hearing, despite being repeatedly asked, learned counsel for the respondent could not point out any judgment where regularization was denied in spite of appointment after following due procedure and against sanctioned posts. All the cited judgment advert to the part time/adhoc or contractual employees who were backdoor entrants. Facts of the instant case are entirely different. The petitioners are not backdoor entrants and they were appointed against sanctioned posts. The respondent in the teeth of judgment of Supreme Court in *Uma Devi (supra)* in 2006 made contractual appointments in 2007-2010. Judgments cited by respondents criticize irregular and backdoor entry. By placing reliance upon *Uma Devi (supra)* and similar judgments, the respondents have raised self-contradictory stand. On one hand, the respondent did not make regular appointments in the teeth of Supreme Court judgments and on the other hand despite following due appointment procedure has kept the petitioners contractual for more than 15 years.

31. As per judgment of this Court as well as Supreme Court, adhoc, temporary, part time, daily wage or contractual workers cannot be regularize if their appointment was not made as per procedure prescribed for regular appointments. The petitioners were appointed after following due procedure. They are fully qualified. They are working with the

Corporation since 2007 and that too without any protection of this Court or any other Court. The Corporation is employer who since 2012 is requesting Chandigarh Administration to regularize the petitioners. They were selected against sanctioned posts. Few sanctioned posts would remain vacant even if petitioners are regularized.

32. In the wake of above discussion and findings, this Court is of the considered opinion that the instant petitions deserve to be allowed and accordingly allowed.

33. The respondents are directed to regularize the petitioners within six weeks from today. If no order of regularization is passed within 6 weeks from today, they shall be deemed to be regularized. They would be entitled to seniority and regular pay from the expiry of aforesaid period.

34. Pending application(s), if any, stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

05.08.2025
Deepak DPA

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