THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JABALPUR

CGIT/LC/R/32/2022
Present: P.K.Srivastava
H.J.S..(Retd)

Shri Rameshwar Verma
S/o. Shri Babulal Verma,
Resident of 37, Bargundo Ka Vass,
Ratlam (Madhya Pradesh)-457 001.

Workman

Versues

The Mukhya Prabhand Nideshak,
Syndicate Bank/Canara Bank,
Corporate Office, Gandhi Nagar,
HOLB Bangalore - 560 009
(Bengaluru) - Karnataka.

Management

AWARD

(Passed on this 23rd day of April, 2026)

As per letter dated 29.06.2022 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act')as per Notification No. **J-1(1-4)/2022-IR** dt 29.06.2022. The dispute under reference relates to:

"क्या श्री रामेश्धर वर्मा कर्मकार को मैसर्स सिंडीकेट बैंक / केनरा बैंक व्दारा आवेदक को काम से निकाला जाना न्यायोचित है ? यदि नहीं, तो उक्त कर्मकार को कब से और किन लाभों के साथ नौकरी पर पुनः बहाल किया जाना चाहिए ?"

According to the workman, he was initially engaged by the then Syndicate Bank in Station Road Branch, Ratlam on 111.12.1997 on the post of P.T.S. and worked more than 08 hours everyday. He used to do the work of cleaning, filing water, serving of water to the customers, setting ledger, preparing and sewing vouchers, counting cash from machine and repairing their bundles, distributing cheque and letters, thus he worked as a Peon and as a Messenger in the Bank with at most honesty, sincerity and to the entire satisfaction of his superiors for more than 22 years till 14.08.2020. The Syndicate Bank merged itself into Canara Bank as per notification issued by the Department of Financial Services, Ministry of Finance on 04.03.2020, published in the Gazette of India on 04.03.2020 and came into effect from 01.04.2020, thereafter all the assets and liabilities of the transferee Bank i.e. the Syndicate Bank including the staff as well claims and liabilities merged with and were taken over by the transferor Bank which is the Canara Bank.

The Management of Canara Bank dispensed with services of the workman from 14.08.2020 under an oral when the workman raised his demand with respect to permanency of service and status. This disengagement was in violation of Section 25F and 25G of the Act because the workman had worked for 22 years continuously in the Bank for more than 240 days in every year. He was disengaged without any enquiry under oral orders, which amounts to retrenchment and is illegal because no notice or compensation was given to him. He raised a dispute in this respect before Regional Labour Commissioner, Bhopal, after failure of conciliation, the reference.

The workman has further alleged that, this action of Management is unjust, illegal and arbitrary. He has prayed that he be held to be reinstated with all back wages and benefits.

The case of Management Bank is mainly that, the allegations are false, the workman was not recruited against any vacancy following recruitment process rather he was a daily wager who was engaged on as and when required basis and was disengaged by the Management Bank. It is further the case of Bank that cleaning, dusting and general keep up of branch are done by the permanent housekeepers cum peons, who also discharge the duties of sub-staff within normal working hours in the erstwhile, Syndicate Bank, the sub-ordinate staff including Attenders, Part-time Sweepers, which are permanent posts.

The Bank has formed district wise list of candidates, for temporary employment of temporary Attenders/Part-time sweeper in leave vacancies and they were engaged on as and when required basis in the Branches. The workman was found indulged in various misconducts namely misbehaving with the staff and customers, hence was disengaged, thus according to Bank, the disengagement of the workman is not in violation of the Act. The Management has requested that the reference be answered against the Workman.

The Workman filed its rejoinder, in which he has mainly reiterated his allegations.

In evidence, the Workman filed and proved lists sent by Manager, Syndicate Bank to Deputy Manager of the Bank on 01.08.2012 along with Annexure containing details of the workman, Annexure containing details of candidates in temporary Attender/PTS panel, statement of engagement of temporary Attenders/PTS panel both dated 16.10.2015, details of the Workman and counter signed by the Branch Manager collectively marked as Exhibit W-1. Exhibit W-2 is the list with respect to details of Temporary PTS working against permanent/clear vacancies from outside the panel as on 15.10.2010, marked as Exhibit W-5, Ex. W-2 is the certificate issued by the Branch Manager on 28.06.2016 certifying that the Workman is working as PTS on temporary basis/daily wager basis since 2010. Exhibit W-3 is another certificate dated 21.11.2017 issued by the Branch Manager containing details of appointment of the Workman. Exhibit W-4 is the identity card, Exhibit W-6 is the Bank certified statement which is in 16 pages.

The Workman has filed his affidavit as his examination in chief. He has been cross-examined by the Management Bank.

Management Bank has not filed affidavit of any of its witness. They have not filed nor have proved any document.

It is further to mention here that, service of Panel Advocate Mr. Praveen Yadav were provided by this Tribunal from the list of Advocates in Panel in this Tribunal for legal services and provided by State Legal Service Authorities of M.P.

I have heard argument of Learned Panel Counsel Mr. Praveen Yadav and Mr. Jaydeep Bansal Learned Counsel for Bank. I have gone through the record as well.

On perusal of record in the light of rival arguments, following issue arise for determination in the case in hand.

1. ***Whether, the Workman has successfully proved his continuous engagement for more than 240 days in a year right from 11.12.1997 to 14.08.2020?***
2. ***Whether, the disengagement of the Workman is in violation of Section 25F and 25G of the Act?***
3. ***Subject to findings on Issue No.1 and No.2, the relief to which the workman be entitled to?***

Before proceeding, Section 25B of the Act requires to be mentioned here and is being reproduced as follows –

25B. Definition of continuous service.—

For the purposes of this Chapter —

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

(b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) ninety-five days, in the case of a workman employed below ground in a mine; and

(ii) one hundred and twenty days, in any other case.

The case of the Workman is that, he worked as a daily wager Peon/Messenger/Cleaner, with the Station Road Branch of the Bank in Ratlam since 11.12.1997 till 14.08.2020 continuously. He has stated this fact in his affidavit which he filed as his examination in chief.

He has stated that, he was first appointed as part-time Sweeper in the Branch on 11.12.1997. He worked at least 08 hours a day, his job was cleaning of the Branch, counting cash, setting ledger, sewing vouchers, carrying cheques and documents, his work was recorded in the Peon book maintained by the Bank. He then states that he was paid his wages through his S.B. Account in the Bank and worked continuously for 22 years. He also states that, vide Circular of the Bank dated 16.10.2015, application were notified for absorption/regularization of Temporary PTS. He had provided his service particulars to the Manager. The Manager had sent his service particulars to the Regional Office. His name is there at Serial No. 36 in the list. He has also stated that he has filed and proved certificate dated 01.08.2012, another certificate dated 21.11.2017 issued by the Bank Officers in support of this statement. In his cross-examination by the Bank, the Workman stated that, he is working since 1997, he was not issued a permanent appointment, he was first appointed on place of peon who was transferred and continued to work on his place. He was selected from among three or four people, he worked for 300 days in every year. He was paid his wages through his Bank Account.

Exhibit W-01 is the Letter sent by the Branch Manager to the Deputy General Manager along with representation of the Workman. Letter dated 01/08/2012, states that he was working since November, 2011 and sought empanelment of his name in the panel. The Manager has answered Annexure 4 and 5 are certificate that the Workman has been working since 1997 and had worked for 800 days. **Annexure 2** is the details of Temporary PTS working in against permanent/clear vacancy from outside the panel, if any as on 15.10.2017 paper of the Branch Bank Officer which contains as many as 40 names, the name of the workman is mentioned at Serial No. 36 of the list. This document **Exhibit W-5** also corroborates his above related statement. It is further corroborated by the two certificates dated 28.06.2016 and 21.11.2017. In absence of any evidence to the condition press by Management Bank, the allegations of the workman on this issue are held proved. **Accordingly, it is held**

that, the workman has proved his continuous engagement under Section 25B of the Act from 1997 to 14.08.2020.

Issue No.1 is answered accordingly.

<u>Issue No. 2 –</u>

Management has taken a case that, since workman was a daily wager and was not recruited through any recruitment process, his disengagement is in violation of the Act. Learned Counsel also submits that, complaints of misbehavior by the Workman were also received by the Bank. In absence of any evidence, the case of the workman to suggest that there were complaints of misbehaviour by the Workman are held not proved. Undisputedly, no notice or compensation was given at his disengagement **hence the disengagement of the workman is held in violation of Section 25F and 25G of the Act**, which are being reproduced as follows-

<u>25F. Conditions precedent to retrenchment of workmen.—</u>

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette.

<u>25G. Procedure for retrenchment</u>.—

Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.

Issue No.2 is answered accordingly.

<u>Issue No. 3 –</u>

Learned Counsel for the Workman has submitted that since workman was a daily wager and was not recruited following recruitment process, he cannot claim to be reinstated or regularized. Learned Counsel for Workman has submitted that this is the case of practicing unfair labour practice by the Management Bank, the Workman had worked continuously for about 22 years with the Bank, there have been instances where the daily wagers who were first engaged as a part-time workers/subordinate staff were granted permanent status and regularized. Learned Counsel further submits that, the appointment of the workman might be irregular, but not illegal.

In the case in hand, the workman has successfully proved his continuous engagement for about 22 years by way of engaging the Workman as a temporary or badli workman or contract labour for as many as 22 years, the Management is held to have adopted unfair labour practice as defined under Section 2(ra) read with Schedule V of the Act, which is prohibited under Section 25(U) and 25(T) of the Act. These provisions are being reproduced as follows -

Section 2(ra) of the Act defines unfair labour practice, which is being reproduced as follows –

2(ra) "unfair labour practice*" means any of the practices specified in the Fifth Schedule;*

THE FIFTH SCHEDULE See section 2(ra) UNFAIR LABOUR PRACTICES I.—On the part of employers and trade unions of employers

1…………………

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10. To employ workmen as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen.

11. …………………

25T. Prohibition of unfair labour practice*.—No employer or workman or a trade union, whether registered under the Trader Unions Act, 1926 (18 of 1926), or not, shall commit any unfair labour practice.*

25U. Penalty for committing unfair labour practices*.—Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.*

Following paragraphs of the judgment referred ***Sudarshan Rajpoot v/s U.P. State Road Transport Corporation (2015) II, SCC 317*** which are being reproduced as follows:-

. "In view of Schedule V, Item 10 of the ID Act, 1947 the respondent Corporation is prohibited from engaging the appellant workman as a badli, casual or temporary workman to work on permanent basis. The fact that he had been continuously working for more than 3 years and he had rendered more than 240 days of service as the driver in a calendar year until his termination order and yet he is being engaged on a contractual basis in the respondent Corporation is statutorily prohibited. The same amounts to an unfair labour practice as defined under Section 2(ra) read with Section 25-T, which action of the Corporation is punishable under Section 25-U of the ID Act. This legal position is settled by this Court in Chief Conservator of Forests case [Chief Conservator of Forests v. Jagannath Maruti Kondhare, (1996) 2 SCC 293 : 1996 SCC (L&S) 500] wherein it was held as under : (SCC pp. 302-03, para 22)

"22. … In our opinion, it would be permissible on facts of a particular case to draw the inference mentioned in the second part of the item, if

badlis, casuals or temporaries are continued as such for years. We further state that the present was such a case inasmuch as from the materials on record we are satisfied that the 25 workmen who went to the Industrial Court of Pune (and 15 to the Industrial Court, Ahmednagar) had been kept as casuals for long years with the primary object of depriving them of the status of permanent employees inasmuch as giving of this status would have required the employer to pay the workmen at a rate higher than the one fixed under the Minimum Wages Act. We can think of no other possible object as, it may be remembered, that the Pachgaon Parwati Scheme was intended to cater to the recreational and educational aspirations also of the populace, which are not ephemeral objects, but par excellence permanent. We would say the same about environment-pollution-care work of Ahmednagar, whose need is on the increase because of increase in pollution. Permanency is thus writ large on the face of both the types of work. If, even in such projects, persons are kept in jobs on casual basis for years the object manifests itself; no scrutiny is required. We, therefore, answer the second question also against the appellants."

25. This Court in the later judgment in Hari Nandan Prasad v. Food Corporation of India [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] , after adverting to the law laid down in U.P. Power Corpn. Ltd. v. Bijli Mazdoor Sangh [(2007) 5 SCC 755 : (2007) 2 SCC (L&S) 258] and Maharashtra SRTC [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513] wherein Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] is adverted to in both the cases, held that on a harmonious reading of the two judgments, even when there are posts available, in the absence of any unfair labour practice the Labour Court cannot give direction for regularisation only because a worker has continued as daily-wage worker/ad hoc/temporary worker for number of years. Further, such a direction cannot be given when the worker concerned does not meet the eligibility requirement of the post in question as per the recruitment rules:

25.1. It was held at para 32 in Hari Nandan Prasad case [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] as under : (SCC p. 211)

"32. However, the Court in Maharashtra SRTC case [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513] found that the factual position was different in the case before it. Here the post of cleaners in the establishment were in existence. Further, there was a finding of fact recorded that the Corporation had indulged in unfair labour practice by engaging these workers on temporary/casual/daily-wage basis and paying them paltry amount even when they were discharging duties of eight hours a day and performing the same duties as that of regular employees."

25.2. *Further, Hari Nandan Prasad [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] referred at para 36, LIC v. D.J. Bahadur [(1981) 1 SCC 315 : 1981 SCC (L&S) 111 : (1981) 1 SCR 1083] in which the relevant para 22 of LIC case [(1981) 1 SCC 315 : 1981 SCC (L&S) 111 : (1981) 1 SCR 1083] is extracted as under : (Hari Nandan Prasad case [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] , SCC p. 213)*

> *"36. … '22. The Industrial Disputes Act is a benign measure which seeks to pre-empt industrial tensions, provide the mechanics of dispute resolutions and set up the necessary infrastructure, so that the energies of the partners in production may not be dissipated in counterproductive battles and the assurance of industrial justice may create a climate of goodwill.' (D.J. Bahadur case [(1981) 1 SCC 315 : 1981 SCC (L&S) 111 : (1981) 1 SCR 1083] , SCC p. 334, per Krishna Iyer, J.)*
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> *In order to achieve the aforesaid objectives, the Labour Courts/Industrial Tribunals are given wide powers not only to enforce the rights but even to create new rights, with the underlying objective to achieve social justice. Way back in the year 1950 i.e. immediately after the enactment of the Industrial Disputes Act, in one of its first and celebrated judgment in Bharat Bank Ltd. v. Employees [1950 SCC 470 : AIR 1950 SC 188 : 1950 LLJ 921 at p. 948] this aspect was highlighted by the Court observing as under : (AIR p. 209, para 61)*
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>> *'61. … In settling the disputes between the employers and the workmen, the function of the Tribunal is not confined to administration of justice in accordance with law. It can confer rights and privileges on either party which it considers reasonable and proper, though they may not be within the terms of any existing agreement. It has not merely to interpret or give effect to the contractual rights and obligations of the parties. It can create new rights and obligations between them which it considers essential for keeping industrial peace.'"*

25.3. *And again at para 37, observing that the aforesaid sweeping power conferred upon the Tribunal is not unbridled and is circumscribed by this Court in New Maneck Chowk Spg. & Wvg. Co. Ltd. v. Textile Labour Assn. [AIR 1961 SC 867] , the relevant para 6 of which is extracted as under : (Hari Nandan Prasad case [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] , SCC p. 213, paras 37-38)*

> *"37. … '6. … This, however, does not mean that an Industrial Court can do anything and everything when dealing with an industrial dispute. This power is conditioned by the subject-matter with which it is dealing and also by the existing industrial law and it would not be open to it while dealing with a particular matter before it to overlook the industrial law relating to that matter as laid down by the legislature or by this Court.' (Textile Labour Assn. case [AIR 1961 SC 867] , AIR p. 870)*
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> *38. It is, thus, this fine balancing which is required to be achieved while adjudicating a particular dispute, keeping in mind that the*

industrial disputes are settled by industrial adjudication on principle of fair play and justice."

26. *In view of the aforesaid statement of law laid down by this Court after adverting to the powers of the Industrial Tribunal and the Labour Court as interpreted by this Court in the earlier decisions referred to supra, the said principle is aptly applicable to the fact situation of the case on hand, for the reason that the Labour Court recorded a finding of fact in favour of the workman that the termination of services of the appellant herein is not legal and valid and further reaffirmed the said finding and also clearly held that the plea taken in the order of termination that he was appointed on contract basis as a driver is not proved by producing cogent evidence. Further, we hold that even if the plea of the employer is accepted, extracting work though of permanent nature continuously for more than three years, the alleged employment on contract basis is wholly impermissible. Therefore, we have held that it amounts to an unfair labour practice as defined under Section 2(ra) of the ID Act, 1947 read with Section 25-T which is prohibited under Section 25-U, Chapter V-C of the ID Act, 1947. We have to hold that the judgment of the High Court in reversing the award is not legal and the same is set aside by us.*

23. *Further, the reliance placed upon the decision of this Court on Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] by the High Court to reverse the finding of fact recorded in the award in favour of the workman in answering the points of dispute in the negative, is not tenable in law in view of the judgment of this Court in Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513] , wherein, this Court after adverting to Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] at para 36, has held that the said case*

"does not denude the Industrial and Labour Courts of their statutory power under Section 30 read with Section 32 of the MRTU and PULP Act to order permanency of the workers who have been victims of unfair labour practice on the part of the employer under Item 6 of Schedule IV where the posts on which they have been working exist". (SCC p. 574)

Further, this Court held that : (SCC p. 574, para 36)

"36. … Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] cannot be held to have overridden the powers of the Industrial and Labour Courts in passing appropriate order under Section 30 of the MRTU and PULP Act, once unfair labour practice on the part of the employer under Item 6 of Schedule IV is established."

Reference may be taken of judgment of Hon'ble Supreme Court in the case of ***Jaggo v/s Union of India reported in (2024) SCC Online SC 3826*** , the relevant paragraphs of this judgment are being reproduced as follows:-

"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."

The principle laid down in the case of Jaggo (Supra) has been followed by Hon'ble Supreme Court in the case of ***Shripal Vs. Nagar Nigam Ghaziabad in Civil Appeal No. 8157/2024 (2025 INSC 144).*** The relevant portion of the said judgment is being reproduced as follows:-

"12. The evidence, including documentary material and undisputed facts, reveals that the Appellant Workmen performed duties integral to the Respondent Employer's municipal functions specifically the upkeep of parks, horticultural tasks, and city beautification efforts. Such work is evidently perennial rather than sporadic or project-based. Reliance on a general "ban on fresh recruitment" cannot be used to deny labor protections to long serving workmen. On the contrary, the acknowledged shortage of Gardeners in the Ghaziabad Nagar Nigam reinforces the notion that these positions are essential and ongoing, not intermittent. By requiring the same tasks (planting, pruning, general upkeep) from the Appellant Workmen as from regular Gardeners but still compensating them inadequately and inconsistently the Respondent Employer has effectively engaged in an unfair labour practice. The principle of "equal pay for equal work," repeatedly emphasized by this Court, cannot be casually disregarded when workers have served for extended periods in roles resembling those of permanent employees. Long-standing assignments under the Employer's direct supervision belie any notion that these were mere short-term casual engagements.

14. The Respondent Employer places reliance on Umadevi (supra) 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 judgement of this court in <u>Jaggo v. Union of India</u>

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

17. In light of these considerations, the Employer's discontinuation of the Appellant Workmen stands in violation of the most basic labour law principles. Once it is established that their services were terminated without adhering to Sections 6E and 6N of the U.P. Industrial Disputes Act, 1947, and that they were engaged in essential, perennial duties, these workers cannot be relegated to perpetual uncertainty. While concerns of municipal budget and compliance with recruitment rules merit consideration, such concerns do not absolve the Employer of statutory obligations or negate equitable entitlements. Indeed, bureaucratic limitations cannot trump the legitimate rights of workmen who have served continuously in de facto regular roles for an extended period. 18. The impugned order of the High Court, to the extent they confine the Appellant Workmen to future daily-wage engagement without continuity or meaningful back wages, is hereby set aside with the following directions:-

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

II. The Respondent Employer shall reinstate the Appellant Workmen in their respective posts (or posts akin to the duties they previously performed) within four weeks from the date of this judgment. Their entire period of absence (from the date of termination until actual reinstatement) shall be counted for continuity of service and all consequential benefits, such as seniority and eligibility for promotions, if any.

III. Considering the length of service, the Appellant Workmen shall be entitled to 50% of the back wages from the date of their discontinuation until their actual reinstatement. The Respondent

Employer shall clear the aforesaid dues within three months from the date of their reinstatement.

IV. The Respondent Employer is directed to initiate a fair and transparent process for regularizing the Appellant Workmen within six months from the date of reinstatement, duly considering the fact that they have performed perennial municipal duties akin to permanent posts. In assessing regularization, the Employer shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Appellant Workmen or to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the Respondent Employer shall expedite all necessary administrative processes to ensure these longtime employees are not indefinitely retained on daily wages contrary to statutory and equitable norms."

The following observations of Hon ble Supreme Court in the case **of Dharam Singh V.s. State of U.P. SLP No. 8558/2018** are being reproduced as follows –

" 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 & Another 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 4 2024 SCC OnLine SC 3826. 5 2025 SCC OnLine SC 221. Civil Appeal No. 8558 of 2018 9 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 Civil Appeal No. 8558 of 2018 10 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 in Jaggo 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 Civil Appeal No. 8558 of 2018 11 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: Civil Appeal No. 8558 of 2018 12 •

As we have observed in both Jaggo (Supra) and Shripal (Supra), outsourcing cannot become a convenient shield to perpetuate precariousness and to sidestep fair engagement practices where the work is inherently perennial. The Commission's further contention that the appellants are not "full-time" employees but continue only by virtue of interim orders also does not advance their case. That

interim Civil Appeal No. 8558 of 2018 15 protection was granted precisely because of the long history of engagement and the pendency of the challenge to the State's refusals. It neither creates rights that did not exist nor erases entitlements that may arise upon a proper adjudication of the legality of those refusals.

14. The learned Single Judge of the High Court also declined relief on the footing that the petitioners had not specifically assailed the subsequent decision dated 25.11.2003. However, that view overlooks that the writ petition squarely challenged the 11.11.1999 refusal as the High Court itself directed a fresh decision during pendency, and the later rejection was placed on record by the respondents. In such circumstances, we believe that the High Court was obliged to examine the legality of the State's stance in refusing sanction, whether in 1999 or upon reconsideration in 2003, rather than dispose of the matter on a mere technicality. The Division Bench of the High Court compounded the error by affirming the dismissal without engaging with the principal challenge or the intervening material. The approach of both the Courts, in reducing the dispute to a mechanical enquiry about "rules" and "vacancy" while ignoring the core question of arbitrariness in the Civil Appeal No. 8558 of 2018 16 State's refusal to sanction posts despite perennial need and long service, cannot be sustained.

15. Therefore, in view of the foregoing observations, the impugned order of the High Court cannot be sustained. The State's refusals dated 11.11.1999 and 25.11.2003, in so far as they concern the Commission's proposals for sanction/creation of Class-III/Class-IV posts to address perennial ministerial/attendant work, are held unsustainable and stand quashed.

16. The appeal must, accordingly, be allowed.

17. Before concluding, we think it necessary to recall that the State (here referring to both the Union and the State governments) is not a mere market participant but a constitutional employer. It cannot balance budgets on the backs of those who perform the most basic and recurring public functions. Where work recurs day after day and year after year, the establishment must reflect that reality in its sanctioned strength and engagement practices. The long-term extraction of regular labour under temporary labels corrodes confidence in public administration and offends the promise of equal protection. Financial stringency certainly has a place in public policy, but it Civil Appeal No. 8558 of 2018 17 is not a talisman that overrides fairness, reason and the duty to organise work on lawful lines.

18. Moreover, it must necessarily be noted that "ad-hocism" thrives where administration is opaque. The State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence,

why they prefer precarious engagement over sanctioned posts where the work is perennial. If "constraint" is invoked, the record should show what alternatives were considered, why similarly placed workers were treated differently, and how the chosen course aligns with Articles 14, 16 and 21 of the Constitution of India. Sensitivity to the human consequences of prolonged insecurity is not sentimentality. It is a constitutional discipline that should inform every decision affecting those who keep public offices running.

19. Having regard to the long, undisputed service of the appellants, the admitted perennial nature of their duties, and the material indicating vacancies and comparator regularisations, we issue the following directions:

i. Regularization and creation of Supernumerary posts: All appellants shall stand regularized with effect Civil Appeal No. 8558 of 2018 18 from 24.04.2002, the date on which the High Court directed a fresh recommendation by the Commission and a fresh decision by the State on sanctioning posts for the appellants. For this purpose, the State and the successor establishment (U.P. Education Services Selection Commission) shall create supernumerary posts in the corresponding cadres, Class-III (Driver or equivalent) and Class-IV (Peon/Attendant/Guard or equivalent) without any caveats or preconditions. On regularization, each appellant shall be placed at not less than the minimum of the regular pay-scale for the post, with protection of last-drawn wages if higher and the appellants shall be entitled to the subsequent increments in the pay scale as per the pay grade. For seniority and promotion, service shall count from the date of regularization as given above.

ii. Financial consequences and arrears: Each appellant shall be paid as arrears the full difference between (a) the pay and admissible allowances at the minimum of the regular pay-level for the post from time to time, and (b) the amounts actually paid, for the period from 24.04.2002 until the date of regularization /retirement/death, as the case may be. Amounts already paid under previous interim directions shall be Civil Appeal No. 8558 of 2018 19 so adjusted. The net arrears shall be released within three months and if in default, the unpaid amount shall carry compound interest at 6% per annum from the date of default until payment.

iii. Retired appellants: Any appellant who has already retired shall be granted regularization with effect from 24.04.2002 until the date of superannuation for pay fixation, arrears under clause (ii), and recalculation of pension, gratuity and other terminal dues. The revised pension and terminal dues shall be paid within three months of this Judgement.

iv. Deceased appellants: In the case of Appellant No. 5 and any other appellant who has died during pendency, his/her legal

representatives on record shall be paid the arrears under clause (ii) up to the date of death, together with all terminal/retiral dues recalculated consistently with clause (i), within three months of this Judgement. v. Compliance affidavit: The Principal Secretary, Higher Education Department, Government of Uttar Pradesh, or the Secretary of the U.P. Education Services Selection Commission or the prevalent competent authority, shall file an affidavit of compliance before this Court within four months of this Judgement. Civil Appeal No. 8558 of 2018 20 20. We have framed these directions comprehensively because, case after case, orders of this Court in such matters have been met with fresh technicalities, rolling "reconsiderations," and administrative drift which further prolongs the insecurity for those who have already laboured for years on daily wages. Therefore, we have learned that Justice in such cases cannot rest on simpliciter directions, but it demands imposition of clear duties, fixed timelines, and verifiable compliance. As a constitutional employer, the State is held to a higher standard and therefore it must organise its perennial workers on a sanctioned footing, create a budget for lawful engagement, and implement judicial directions in letter and spirit. Delay to follow these obligations is not mere negligence but rather it is a conscious method of denial that erodes livelihoods and dignity for these workers. The operative scheme we have set here comprising of creation of supernumerary posts, full regularization, subsequent financial benefits, and a sworn affidavit of compliance, is therefore a pathway designed to convert rights into outcomes and to reaffirm that fairness in engagement and transparency in administration are not matters of Civil Appeal No. 8558 of 2018 21 grace, but obligations under Articles 14, 16 and 21 of the Constitution of India."

In the light of aforesaid proposition of law, keeping in view the fact that the workman has put in about 22 years with the Management in their service, he is held entitled to be reinstated with 50% back wages and to be considered for granting permanent status and regularization.

Issue No. 3 is answered accordingly.

In the above discussion the reference is answered as follows.

AWARD

The action of Management Bank in terminating the services of Workman Rameshwar Verma is held against law. The workman is held entitled to be reinstated with 50% back wages and to be considered for granting permanent status and regularization.

The Management Bank is directed to reinstate the workman Rameshwar Verma with 50% back wages, payable to him within 90 days from the date of Award, failing which interest @6% per annum from date of Award till payment.

The Management Bank is directed to initiate a fair and transparent process for granting permanent status and regularization of the Workman within six months from the date of reinstatement, duly considering the fact that he has performed perennial duties. In assessing regularization, the Management shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Applicant Workman or to similarly situated regular employees in the past. The Management Bank shall expedite all necessary administrative processes to ensure that such type of workmen are not indefinitely retained on daily wages contrary to statutory and equitable norms.”

No order as to cost.

DATE:-23/04/2026

(P.K.SRIVASTAVA)
PRESIDING OFFICER