
(2022) 12 TEL CK 0008
In the Telangana High Court
Case No : Writ Petition No. 27602 Of 2019

Manipati Lingam And Others

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 06-12-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2022) 12 TEL CK 0008

Hon'ble Judges : Surepalli Nanda, J

Bench : Single Bench

Advocate : A.Ravinder

Judgement

1. Heard learned counsel for the petitioners and learned counsel for the respondents.

2. This writ petition is filed to issue an order or direction more particularly one in the nature of Writ of Mandamus to declare the impugned notice in Rc.No.C1/1933/2009, dated 06.08.2019 issued by the 2nd respondent wherein rejecting the claim of the petitioners for regularisation of their services though the same was considered in cases of similarly situated persons as illegal, and liable to be set aside and consequently, direct the respondents to regularise the services of the petitioners by duly following law laid down by the Apex Court in case of Secretary, State of Karnataka and others v Umadevi and others on 10.04.2006 and the law laid down by the High Court in U.V.S.R. Prasad and others v State of Andhra Pradesh and another in W.P.No.27217 of 2017 reported in 2018(2) ALD 282 (DB) with all consequential benefits.

PERUSED THE RECORD

3. The contents in Rc.No.C1/1993/2009, dated 06.08.2019 read as under:

I submit that in this regard as per the above the workers of Devasthanam Temple Civil Department workers M.Lingam B.Sailu, B. Ramesh, K. Mallesh, S. Srisailam,

they requested the authority regularize their service as a NMR along with others they approached Hon'ble High Court order as per reference 1 is cited. The Hon'ble High Court directed the authorities regularized their service (5 Labours) completed 25 years of service as per G.O.Ms.No.76, dated 12.05.2017 who were considered 35 members of NMR's. As per the Hon'ble High Court order they submitted representation to the Commissioner consider them as a regular employees.

Above reference 4th is cited as per G.O.Ms.No.212 23.04.1994 they are not considered under the send G.O's the Commissioner submitted report stating that as per rules they are not eligible the Commissioner informed the petitioners also. As per reference 5th is cited the Commissioner direct the Executive Officer. As per reference 6th is cited the requested the authorities to enhance our labour charges as per their request this office is enhanced their labour charge 100/-Rs.

As per the Hon'ble Commissioner as per your request to the office your appointed before 1993 and requested regularise NMR's along with others. In this regard you are not a NMR and also you are not daily wage workers. Your working since from 08.04.1992 whenever your work required we are utilizing your work. Though you are not under the cover of as per GO.Ms.No. 212 dated 22.04.1994 and you are not completed 5 years of service as on the cut of date 22.04.1994.

In this temple your working Civil Department temporarily for minor works whenever work is required we utilize your work and paid the amount as per the work of that basis your working in this temple though you are not eligible for regular NMR's as per rules.

4. Office order dated 06.01.1996 reads as under:

It is observed that the musters of NMR's are not being prepared in time and the individuals who have been stringing for the entire masons facing much difficulty due to non payment of musters in time as represented by some of them. It is therefore ordered that the amounts covered by the musters should be paid to all the temporary workers whether NMR's or DLR's who have been working before the date of Ordinance i.e., 25.11.1993 by monthly bills here after only through cheques that too by opening individual accounts in Nagarjuna Grameena Bank and remitting the amounts to the respective accounts by supplying list of such employees to the Manager, along with cheque. This will also help the employees to minimize his expenditure and in the welfare of staff. All such workers are also directed to open account in N.G.B. forthwith.

5. The order in W.P.No.25842 of 2007 reads as under:

This Writ Petition is filed seeking a Writ of Mandamus declaring the action of the respondents in not regularizing the services of petitioners on completion of five years of service as illegal and arbitrary and consequently direct the respondents to regularize the services of petitioners from the date on which they have completed five years of service with all consequential and attendant benefits

including arrears of pay.

Mr.A.Ravinder learned counsel for petitioners, learned Government Pleader for Endowments and the learned Standing Counsel for 2nd respondent.

It has been contended by petitioners that they were appointed as daily wage workers in the 2nd respondent Devasthanam on 08.04.1992 and ever since, they are continuously discharging their duties.

It is further contended that services of similarly placed persons, who were appointed prior to 25.11.1993, were regularized vide G.O.Ms.No.76 dated 12.05.2017. Learned counsel appearing for the petitioners has furnished a copy of G.O.Ms.No.76 dated 12.05.2017 and contends that the petitioners are also identically placed to the persons, in whose favour regularisation orders were passed vide G.O.Ms.No.76, dated 12.05.2017.

Learned Standing Counsel appearing for 2nd respondent contended that the persons, who were regularized vide G.O.Ms.No.76, dated 12.05.2017 are the persons, who were appointed prior to 25.11.1993 and they have put in 24 years of service and the Government has taken a decision as a special case to absorb and regularize the services of 35 2 NMRs appointed prior to 25.11.1993 and contends that the petitioners were appointed as daily wage workers but not as NMRs and that is the reason, the respondents have not considered the case of petitioners for regularization.

This Court, having considered the rival submissions, is of the considered view that in the instant case, the petitioners were appointed prior to 25.11.1993 i.e., on 08.04.1982 and they have put in more than 25 years of service and they are also entitled for similar treatment as was extended in favour of 35 NMRs in whose favour G.O.Ms.No.76, dated 12.05.2017 was issued.

Therefore, this writ petition is disposed of directing the respondents to consider the case of petitioners as was done in the case of persons, in whose favour G.O.Ms.No.76, dated 12.05.2017 was issued, within a period of four weeks from the date of receipt of a copy of this order. No order as to costs.

6. Para 13 of the Counter Affidavit filed by the Respondents reads as under :

Para 13 : In reply to the averments raised in the paras 9 to 11 of the writ affidavit, I humbly submit that the cases cited by the petitioners have no application to the situation of the petitioners as they stand on different footing i.e., they are neither NMRs nor Daily Wage Workers and that their services are taken when the contingency arises. I submit for sake of argument even if it is presumed that the petitioners have made out their case, they cannot be considered in view of the twin stipulations as laid down in G.O.Ms.No.212, dt. 22.04.1994 wherein it was stipulated that only the persons who had completed 5 years working against any sanctioned post. I submit that the petitioners fail on both the grounds. I submit that the employees who fulfil the criteria can be only be considered. I submit that they are neither employees nor NMRs or Daily Wage

Labourers as such the rules cannot be applied in their case.

DISCUSSION AND CONCLUSION:

7. A bare perusal of the order impugned dated 06.08.2019 clearly indicates the fact that the petitioners are working since 08.04.1992 for the 3rd respondent temple, even as per the impugned notice of the 3rd respondent in Rc.No.C1/1993/2009, dated 06.08.2019, but it is however, stated by the 3rd respondent that the services of the petitioners are utilised whenever required by the 3rd respondent and further the petitioners did not complete five years of service as on the cut of date i.e. 22.04.1994, therefore, the petitioners are not entitled for regularisation as per rules.

8. A bare perusal of the contents of the office order dated 06.01.1996 clearly indicates that the 2nd respondent through office order dated 06.01.1996 directed the petitioner herein and also other similar workers to open accounts in the Nagarjuna Grameena Bank so as to ensure that the salary of the employees are credited into the said account and further directed to maintain the muster rolls of NMRs.

9. Vide orders dated 04.12.2007 passed in W.P.M.P.No.33673 of 2007 in W.P.No.25842 of 2007 the petitioners in the present writ petition had been continued in service and the said writ petition was finally disposed of on 10.09.2018 with a clear observation as follows:

"This Court having considered the rival submissions is of the considered view that in the instant case, the petitioners were appointed prior to 25.11.1993 i.e. on 08.04.1992 and they have put in more than 25 years of service and they are also entitled for similar treatment as was extended in favour of 35 NMRs in whose favour G.O.Ms.No.76, dated 12.05.2017 was issued. "

10. A bare perusal of the contents of the letter dated 31.10.2011 of the 3rd respondent herein addressed to the 2nd respondent clearly indicates that the 3rd respondent is misguided and had erroneously observed in the said letter that as on the cut off date i.e. 23.04.1994 the petitioners did not have the required five years service as stipulated in G.O.Ms.No.212, dated 23.04.1994, therefore, the petitioners cannot have the benefit of the said G.O.

11. A bare perusal of the contents of the letter Rc.A1/4710/2007, dated 31.12.2014 of the 3rd respondent herein clearly indicates that the 3rd respondent herein called for a report from the civil department way back on 31.12.2014 itself.

12. Admittedly as borne on record and observed by the High Court in its order dated 10.09.2018 in W.P.No.25842 of 2007, the petitioners were appointed by the 3rd respondent temple prior to 25.11.1993 i.e. on 08.04.1992 and they have put in more than 25 years of service as on 10.09.2018 and the petitioners have rendered almost 29 years of service as on date i.e. December, 2022, to the 3rd respondent temple. Having continued in service regularly, continuously by virtue

of the interim orders of the High Court dated 04.12.2007 passed in W.P.M.P.No.33673 of 2007 in W.P.No.25842 of 2007, this Court opines that the petitioners herein are also entitled for the similar treatment as was extended in favour of 35 NMRs in whose favour G.O.Ms.No.76, dated 12.05.2017 was issued by the Respondents herein and their services had been regularized.

13. It is in fact, specifically averred by the petitioners herein at para 4 of their affidavit that in pursuance to the office order of the 2nd respondent dated 06.01.1996, the petitioners also opened their accounts and salaries of the petitioners are being credited into the said account regularly by the 3rd respondent herein and the petitioners had been continuously rendering their services to the 3rd respondent temple since 08.04.1992 till as on date. A bare perusal of the statement giving the particulars of the bank account number as per the records of the 3rd respondent clearly indicates that the petitioners are rendering their services in the civil engineering department of the 3rd respondent temple and the same is extracted hereunder:

Below are the particulars of the employees working in Civil Engineer department of the Temple:

S.No.

Name

Occupation

Time of work

Caste

Aadhar

No.

Date of Birth

Account No.

Bank

IFC CODE

1.

M.Lingam (Court Case)

Mestri

2061587151

CBI

DOWN HILL

CBIN

0280845

2.

B.Sailu

(Court case)

Paragadu

3579989945

CBI

CBIN

0283968

3.

B.Ramesh

Mestri

3579596115

CBI

CBIN

0283968

4.

K.Mallesh

(Court Case

Mestri

3580782607

CBI

CBIN

0283968

5.

s.Srisailam

(Court Case)

Mestri

3581746953

CBI

CBIN

0283968

14. In response to the plea of the Respondents during the course of arguments that the petitioners are presently not in service, learned counsel for the petitioners filed certain bank statements of the Petitioners on 08.09.2022 which pertains to the year 2022. On perusal of the same, this Court is of the opinion and it is very clear that the Respondents are trying to misrepresent to the Court.

A) The Apex Court in a judgment reported in (2017) 1 Supreme Court Cases 148, in State of Punjab and others vs Jagjit Singh and others at Paras 54 and its sub-paras (1)(2)(3), of the said judgment observed as under:

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

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

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

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

B) The judgment of the Apex Court reported in 2010(9) SCC 247 between: State of Karnataka and others v M.L.Kesari and others, in particular, paras 4 to 9 reads as under:

4. The decision in State of Karnataka v. Umadevi was rendered on 10.4.2006

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

"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa [1967 (1) SCR 128], R.N. Nanjundappa [1972 (1) SCC 409] and B.N. Nagarajan [1979 (4) SCC 507] and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases abovereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date.

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

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

(ii) The appointment of such employee should not be illegal, even if irregular. Where the appointments are not made or continued against sanctioned posts or

where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive selection, such appointments are considered to be irregular.

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

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

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

8. The object behind the said direction in para 53 of Umadevi is two- fold. First is to ensure that those who have put in more than ten years of continuous service without the protection of any interim orders of courts or tribunals, before the date of decision in Umadevi was rendered, are considered for regularization in view of their long service. Second is to ensure that the departments/

instrumentalities do not perpetuate the practice of employing persons on daily-wage/ad-hoc/casual for long periods and then periodically regularize them on the ground that they have served for more than ten years, thereby defeating the constitutional or statutory provisions relating to recruitment and appointment. The true effect of the direction is that all persons who have worked for more than ten years as on 10.4.2006 (the date of decision in Umadevi) without the protection of any interim order of any court or tribunal, in vacant posts, possessing the requisite qualification, are entitled to be considered for regularization. The fact that the employer has not undertaken such exercise of regularization within six months of the decision in Umadevi or that such exercise was undertaken only in regard to a limited few, will not disentitle such employees, the right to be considered for regularization in terms of the above directions in Umadevi as a one-time measure.

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

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

C) In the judgement of the Apex Court in Nihal Singh and others v. State of Punjab reported in (2013) 14 SCC 65, the Supreme Court considered the case of absorption of Special Police Officers appointed by the State, whose wages were paid by Banks at whose disposal their services were made available. It held that the mere fact that wages were paid by the Bank did not render the appellants 'employees' of those Banks since the appointment was made by the State and disciplinary control vested with the State. It held that the creation of a cadre or sanctioning of posts for a cadre is a matter exclusively within the authority of the State, but if the State did not choose to create a cadre but chose to make

appointments of persons creating contractual relationship, its action is arbitrary. It also refused to accept the defence that there were no sanctioned posts and so there was justification for the State to utilise services of large number of people like the appellants for decades. It held that "sanctioned posts do not fall from heaven" and that the State has to create them by a conscious choice on the basis of some rational assessment of need. Referring to Umadevi, it held that the appellants before them were not arbitrarily chosen, their initial appointment was not an 'irregular' appointment as it had been made in accordance with the statutory procedure prescribed under the Police Act, 1861, and the State cannot be heard to say that they are not entitled to be absorbed into the services of the State on permanent basis as, according to it, their appointments were purely temporary and not against any sanctioned posts created by the State. It was held that the judgment in Umadevi cannot become a licence for exploitation by the State and its instrumentalities and neither the Government of Punjab nor those public sector Banks can continue such a practice inconsistent with their obligation to function in accordance with the Constitution.

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

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

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

E) In Amarkant Rai v State of Bihar reported (2015) 8 SCC 265, the Supreme Court held that 'The objective behind the exception carved out in this case was to permit regularisation of such appointment, which are irregular but not illegal, and to ensure appointments, which are irregular but not illegal, and to ensure security of employment of those persons who had served the State Government and their instrumentalities for more than ten years'. In that case, employee was working for 29 years. This decision approves earlier view expressed in M.L.Kesari extracted above.

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

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

15. A bare perusal of the observations of the Apex Court in various judgments referred to and extracted above clearly indicate that the claim of the petitioners for regularization has to be necessarily considered in view of the fact that the concept of one time measure as explained at paras 6 to 10 of the Judgment of the Apex Court in *State of Karnataka v M.L.Kesari* which in clear explicit terms said that one time exercise will be concluded only when all the employees who are entitled to be considered in terms of para 53 of *Uma Devi* are so considered and the mandate and object in *Uma Devi's* case as explained in para 53 of the said judgment, to do periodic regular recruitment of qualified personnel for vacant posts and regularise the services of those engaged for more than 10 years, as a one time measure and the clarification of *Uma Devi's* case and the observation as held at para '5' of the decision of the Supreme Court in *State of Karnataka and Others vs. M.L.Kesari and others* that *Uma Devi* casts a duty upon the concerned Government and Instrumentality to take steps to regularize the services of those irregularly appointed employees who had served for more than ten years without the benefit or protection of any interim orders of Courts or Tribunals as a one-time measure has not been diluted and the observations in para 54(2) of the Judgement of the Apex Court in *State of Punjab and Others v. Jagjit Singh* still hold good, which has clearly said that a legally permissible scheme has to be framed in respect of daily wagers, adhoc or contractual appointees who are not appointed against sanctioned posts, but their services are availed continuously with notional breaks by the State Government or its instrumentality for a sufficient long period i.e., for ten years.

16. This Court is of the firm opinion that the plea of the 3rd respondent temple that the petitioners did not satisfy the requirement of completing five years of service as on 25.11.1993 and further that the Petitioners are not working against any sanctioned posts and hence, they are not entitled to be considered for regularisation as indicated in the letter of the 3rd respondent dated 31.10.2011 and as indicated in the order impugned of the 3rd respondent dated 06.08.2019 and also in their counter affidavit filed before the High Court in the present writ petition at para 13 of the counter cannot be sustained, as per the observations of the various Apex Court judgments referred to and extracted above, in view of the simple fact that the petitioners are rendering their services to the 3rd respondent temple continuously from 1992 till as on date i.e. for the last nearly 29 years.

The 3rd respondent temple cannot deny the relief of regularization to the petitioners as per para 53 of the decision in Umadevi's case, which permits one time exercise of regularization to be done for personal employed on temporary basis/daily wages etc, who have rendered continuous service for more than 10 years. The 3rd respondent temple cannot take the services of the petitioners for years together without regularising their services and indulge in such a practice inconsistent with their obligation to function in accordance with the constitution as observed by the Apex Court in Nihal Singh and others v State of Punjab which clearly held that "sanctioned posts do not fall from heaven" and the State has to create them by a conscious choice on the basis of some rational assessment of the need.

17 Taking into consideration, the above referred facts and circumstances and in the light of the observations of the Apex Court in various judgments referred to and discussed above, the writ petition is allowed duly setting aside the order impugned in Rc.No.C1/1993/2009, dated 06.08.2019 issued by the 2nd respondent and the respondents are directed to consider the case of the petitioners for regularization of the services of the petitioners duly taking into consideration the law laid down by the Apex Court in various judgments referred to and extracted above, since the petitioners herein are also entitled for similar treatment as was extended by the respondents herein in favour of 35 NMRs of the 3rd respondent temple whose services had been regularized and in whose favour G.O.Ms.No.76, dated 12.05.2017 was issued by the respondents herein and pass appropriate orders, in accordance to law, within a period of two months from the date of receipt of copy of the order and communicate the decision to the petitioners. However, there shall be no order as to costs.

Miscellaneous applications, if any, pending shall stand closed.