

(2025) 10 DEL CK 1256

In the Delhi High Court

Case No : Writ Petition (C) No. 7006 Of 2020 & Civil Miscellaneous Application
No. 23906 Of 2020

Sh. Sandeep Kumar Union Of India

Date of Decision : 10-10-2025

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 309

Citation : (2025) 10 DEL CK 1256

Hon'ble Judges : Navin Chawla, J; Madhu Jain, J

Bench : Division Bench

Advocate : Aarush Bhatia, Shubhankar Sengupta, Radhika Bishwajit Dubey,
Gurleen Kaur Waraich, Kritarth Upadhyay

Final Decision : Allowed

Judgement

Madhu Jain, J

1. This petition has been filed challenging the Order dated 20.02.2020 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. 490/2020, titled Sh. Sandeep Kumar v. The Secretary, Department of Legal Affairs, Ministry of Law & Justice, (hereinafter referred to as the 'Impugned Order'), dismissing the O.A. filed by the petitioner herein.

FACTS OF THE CASE

2. The case of the petitioner is that the petitioner's father was a permanent Group 'D' employee with the respondent organisation, Department of Law and Justice and served as a Peon until his demise on 23.02.2005. He was the sole earning member of the family, and upon his father's death, the petitioner's mother submitted an application dated 08.02.2007 requesting compassionate appointment for the petitioner.

3. After almost a year, the petitioner was contacted by the respondent and asked to join its services. Accordingly, the petitioner joined the respondent on 21.03.2008 as Multi-Tasking Staff ('MTS'), as a daily wager.

4. The petitioner submitted that at the time of his engagement in 2008, he was assured by the respondent that his appointment would be treated as a compassionate appointment and that his services would be regularized in due course. The petitioner did not challenge this arrangement and, relying on the assurance that his appointment was made on compassionate grounds with finalization pending, he continued to work as a daily wager.

5. It is the case of the petitioner that he received letters dated 08.11.2013 and 06.12.2013 from the respondent, seeking further information in relation to his Compassionate Appointment Application. The petitioner responded to the said letters vide its letter dated 11.12.2013, whereby the petitioner furnished all the necessary particulars sought by the respondent.

6. The petitioner further contended that while several other daily wagers, including those appointed after him, were regularized in June 2018, on completion of 10 years of their service, he was arbitrarily excluded from the process of regularization without any justification.

7. In the year 2019, the petitioner was terminated from employment and was informed that, due to a policy decision, he could not continue as a daily wager and would have to be hired on a contractual basis.

8. Thereafter, the petitioner requested respondent to reconsider his termination and also lodged a grievance before the National Commission for Scheduled Castes, however, he received no redressal from the respondent.

9. Aggrieved thereby, the petitioner filed O.A. 490/2020 before the learned Tribunal praying for the following reliefs:

"a. Pass an order directing the respondents to regularise the service of the petitioner in the appropriate post, as he has completed 11 years as daily wager in the post of Peon.

b. Pass an order directing the respondent to appoint the petitioner in service with the respondent on compassionate ground.

c. Pass such other directions or orders as this Honorable Tribunal may deem fit and proper to meet the ends of justice"

10. The learned Tribunal, vide the Impugned Order, dismissed the said O.A. by holding as under:

"3. It is clear that the applicant was employed as a Daily Wager but the nature of the appointment was not one on compassionate grounds in lieu of his father. The two prayers made by the applicant are contradictory. The first prayer is to regularise him on an appropriate post on which he has completed 11 years as Daily Wager and the second prayer is to appoint him on compassionate grounds. Since he has already got an appointment with the respondents for the last 12 years, which is not challenged, there is no question of giving him any compassionate appointment at this stage.

4. As far as first prayer is concerned regarding regularisation, no grounds have been made out in this ?.? in support of his plea for regularisation. It has not been brought out as to what is the policy for regularisation of the respondents-organisation and how the applicant is eligible.

5. In light of the above, this O.A is without any merit and is dismissed. No costs."

11. Aggrieved by the Impugned Order, the petitioner has approached this Court by way of the present petition.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

12. The learned counsel for the petitioner submits that the Impugned Order passed by the learned Tribunal is bad in law as the O.A. was rejected on mere technicalities.

13. Furthermore, the learned counsel for the petitioner submits that while the petitioner is eligible for appointment on compassionate grounds, he is also entitled, by reason of long service, to be regularised, having served as a daily wager since 21.03.2008, for a continuous period of more than ten years.

14. The learned counsel for the petitioner further contends that the petitioner has been treated in an unfair, arbitrary and irrational manner. It is submitted that though the respondent itself has admitted to having appointed the petitioner on compassionate grounds, they nevertheless continued to utilise his services as a daily wager for over eleven years before dispensing with them.

15. In the alternative, the learned counsel for the petitioner submits that the ratio laid down by the Apex Court in *State of Karnataka v. Umadevi*, (2006) 4 SCC 1, is squarely applicable to the present case. It is urged that the petitioner has admittedly served the respondent as a daily wager for a continuous period of eleven years since his initial appointment on 21.03.2008. It is further contended that, notwithstanding such long service, the respondent has granted regularisation to daily wagers appointed subsequent to the petitioner, while the petitioner himself was continued only as a daily wager.

16. The learned counsel for the petitioner also submits that during the pendency of the petitioner's application for compassionate appointment, the respondent appointed 26 daily wagers in a temporary capacity and such conduct of the respondent is contrary to the provisions of the Scheme for Compassionate Appointment, 1998, which provides in Clause 18(f), that compassionate appointment shall have precedence over absorption of surplus employees and regularisation of daily wager or casual workers, with or without temporary status.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENT

17. Per contra, the learned counsel for the respondent submits that at the time of petitioner's application for compassionate appointment on 08.02.2007, committee for compassionate appointments did not exist, and other applications from similarly placed candidates were also pending. In view of the petitioner's

circumstances, the respondent department, exercising sympathetic consideration, offered employment to the petitioner on a daily wage basis.

18. It is submitted on behalf of the respondent that the petitioner advanced two different and contradictory prayers before the learned Tribunal. In the first, he sought regularisation on the appropriate post in which he had completed eleven years as a daily wager, while in the second, he sought appointment on compassionate grounds.

19. It is further submitted that the petitioner cannot claim regularisation as a matter of right. It is contended that the petitioner has sought to rely upon a portion of the judgment of the Supreme Court in *Uma Devi (supra)* in isolation, whereas the said judgment has to be read and applied in its entirety, keeping in view the broader principles laid down therein regarding casual workers.

20. It is further contended that in light of the DoP&T O.M. No. F. 49019/1/95Estt-(C) dated 14.06.2016 (in short, 'O.M. dated 14.06.2016'), the respondent was required to progressively discontinue the practice of engaging daily wagers and instead meet manpower needs either by appointing regular employees or by resorting to outsourcing, until such time as the regular vacancies were filled through a Recruitment Agency.

21. The learned counsel for the respondent places reliance on the Judgment of Supreme Court in *Indian Drugs & Pharmaceuticals Ltd. v. Workmen*, (2007) 1 SCC 408, to contend that the courts and tribunals cannot direct for relaxation of the requirements under the recruitment rules for the regularization of the temporary appointees dehors the rules, nor can it direct continuation of service of a temporary employee (whether described as a casual, ad hoc, or daily-rated employee), or mandate payment of regular salaries to them.

22. The learned counsel for the respondent also relies upon the decision of the Supreme Court in *State of Rajasthan v. Daya Lal*, (2011) 2 SCC 429, which held that regularisation is not a matter of right and cannot be claimed merely on the basis of long service as a casual, temporary, or ad-hoc employee or on sympathetic grounds.

23. The learned counsel for the respondent further places reliance on *Surinder Prasad Tiwari v. UP Rajya Krishi Utpadan Mandi Parishad*, (2006) 7 SCC 684, wherein the Supreme Court, examining regularisation from a constitutional perspective, held that it would be improper for courts to direct regularisation of service of persons engaged as daily wagers, ad hoc, probationers, temporary, or contractual employees, without following the procedure mandated under Articles 14, 16, and 309 of the Constitution of India.

24. It is submitted on behalf of the respondent that the petitioner was considered for compassionate appointment on two occasions, namely in 2012 and 2018, by a committee constituted for that purpose, in accordance with the applicable rules and regulations. However, on both the occasions, the petitioner did not meet the

required parameters and, therefore, did not qualify.

25. The learned counsel for the respondent also contends that the regularisation of 26 daily wage workers, relied upon by the petitioner, was only a one-time measure permissible under the case of Umadevi (supra). It is further urged that those workers were senior to the petitioner, having joined the respondent department prior to the petitioner as daily wagers. Hence, the petitioner cannot seek parity with them or claim regularisation as a matter of right.

ANALYSIS AND FINDINGS

26. We have considered the submissions made by the learned counsel for the respective parties.

27. The issue that arises for consideration is whether the petitioner, having served as a daily wager for over eleven years since 21.03.2008, is entitled to regularisation of his service. At the outset, it is undisputed that the petitioner worked with the respondent as a daily wager from 21.03.2008 until his termination in 2019. It is also not denied that the petitioner was in fact, being considered for appointment under compassionate appointment.

28. One cannot lose sight of the fact that, the respondent contended that, in terms of the O.M. dated 14.06.2016, it was under an obligation to gradually discontinue the engagement of daily wagers and to meet its manpower requirements either through regular appointments or outsourcing, pending recruitment to sanctioned vacancies. The relevant excerpt from the DoP&T O.M. dated 14.06.2016 is set out below for reference:

"No. F. 49019/1/95-Estt-(C)

Government of India

Ministry of Personnel, Public Grievances &

Pensions

Department of Personnel & Training

New Delhi, North Block

Dated 14th June, 2016

OFFICE MEMORANDUM

Subject: Recruitment of casual workers and persons on daily wages.

The undersigned is directed to refer to the provisions of the Department of Personnel and Training OM No. 49014/2/86-Estt (C) dated 7th June, 1988 on recruitment of Casual Workers and daily wages. Attention is invited to the provisions of the referred O.M at para 1(iii) which lays down "that work presently

being done by regular staff should be reassessed by the administrative Departments concerned for output and productivity so that the work being done by the casual workers could be entrusted to the regular employees."

2. It has been observed that in spite of strict guidelines on engagement of Casual Labour vide the above referred O.M, various Ministries/Departments continue to engage casual workers for attending work of regular nature against the Government's policies. It is, therefore, reiterated that all Ministries/ Departments may ensure strict compliance of the guidelines on engagement of Casual Labour. Negligence in the matter of implementing these guidelines should be viewed seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters."

29. However, it is expedient to observe that, instead of adhering to the said directive, the respondent itself continued to extend the petitioner's engagement through successive communications issued between 14.10.2017 and 07.01.2019, thereby keeping him employed as a daily wager for nearly three years after the issuance of the aforementioned O.M.. Such selective application of the policy not only undermines the respondent's own stand but also offends the principle of fairness embedded in Article 14 of the Constitution of India. It is pertinent to note that the repeated extensions granted to the petitioner cannot be viewed as casual or inconsequential. On the contrary, they indicate the continuing necessity of his services and constitute an implicit acknowledgment of his satisfactory performance. At no point did the respondent allege any deficiency in his work or conduct. Such repeated extensions provide substantive support to the petitioner's claim for regularisation. The Supreme Court in *Jaggo v. Union of India*, 2024 SCC OnLine SC 3826, has held that the claim of regularisation of such employees by merely appointing them as casual/temporary/ad hoc, etc., cannot be accepted. We quote from the judgment as under:

"19. It is evident from the foregoing that the appellants' roles were not only essential but also indistinguishable from those of regular employees. Their sustained contributions over extended periods, coupled with absence of any adverse record, warrant equitable treatment and regularization of their services. Denial of this benefit, followed by their arbitrary termination, amounts to manifest injustice and must be rectified."

(Emphasis supplied)

30. The reliance placed by both the parties on *Uma Devi* (supra) deserves closer scrutiny. It is well settled that the judgment in *Uma Devi* (supra) was intended to curb the menace of backdoor appointments and to ensure compliance with constitutional requirements in public employment. At the same time, the Supreme Court made a clear distinction between 'illegal' and 'irregular' appointments, specifically carving out an exception in favour of employees engaged against sanctioned posts who had rendered more than ten years of continuous service. Such employees were to be considered for regularisation as a

one-time measure.

31. As noted in *Jaggo* (supra), the intended purpose of *Uma Devi* (supra) has frequently been undermined through misapplication. The Supreme Court in this regard observed:

"10. Having given careful consideration to the submissions advanced and the material on record, we find that the appellants' long and uninterrupted service, for periods extending well beyond ten years, cannot be brushed aside merely by labelling their initial appointments as part-time or contractual. The essence of their employment must be considered in the light of their sustained contribution, the integral nature of their work, and the fact that no evidence suggests their entry was through any illegal or surreptitious route.

26. While the judgment in *Uma Devi* (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between "illegal" and "irregular" appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in *Uma Devi* (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades."

(Emphasis supplied)

32. In *Shripal v. Nagar Nigam*, Ghaziabad, 2025 SCC OnLine SC 221, the Supreme Court followed the tenets of *Jaggo* (supra) and directed the respondents to reinstate the workmen, who had rendered prolonged service, in their respective posts in Nagar Nigam. The relevant paragraph of *Shripal* (supra) reads as under:

"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.”

(Emphasis supplied)

33. From the above quoted Judgments, it can be inferred that the Supreme Court has clarified that the Judgment in Uma Devi (supra) cannot come in the way of the contractual/ad hoc/daily wage employees claiming their legitimate right to seek regularization of employment based on prolonged essential services rendered by them.

34. The respondent has sought to place reliance on Indian Drugs & Pharmaceuticals Ltd. (supra), which followed the dictum in Uma Devi (supra). However, the said decision was rendered in the peculiar context of a financially distressed company. Its ratio cannot be applied to the present facts.

35. Further, the respondent relies on Surinder Prasad (supra). It is to be noted that the facts of the case do not squarely fit into the facts of the present case. In Surinder Prasad (supra), the appellant was appointed contractually for periods of three to six months on recurring assignments to complete certain projects. Moreover, in the said case, unlike in the present case, his long tenure was due to the interim order granted in his favour.

36. Similarly, the respondent’s reliance on Daya Lal (supra) is misplaced, as it does not accurately reflect the situation in the instant case. In the said case, the Supreme Court was examining the relaxation in requirements under the recruitment rules that can be granted to the temporary /ad hoc employees.

CONCLUSION

37. In the circumstances mentioned above, denial of regularisation to the petitioner despite his 11 years of continuous service, would amount to exploitation of his dedicated service.

38. Further, it would also run afoul of the settled legal principles, wherein it is emphasised that long and continuous service, extending well beyond ten years, cannot be brushed aside merely by labelling their initial appointments as part-time or contractual and, a tenure of more than 10 years should be considered for regularisation as a one-time measure. Therefore, this Court is of the view that the petitioner, having rendered continuous and satisfactory service for over eleven years with the respondent, is entitled to regularisation of his service.

39. Accordingly, the decision of the learned Tribunal is set aside.

40. The petition, along with pending application(s), is allowed. Necessary orders in this regard shall be issued by the respondent within a period of 8 weeks from the date of this Judgment.