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WP-1436-2022

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

ON THE 4th OF SEPTEMBER, 2025

WRIT PETITION No. 1436 of 2022

RAJENDRA SHARMA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri L. C. Patne - Advocate for the petitioner.

Shri Romil Verma - G.A for the respondent/State.

.....
WITH

WRIT PETITION No. 1439 of 2022

MAHESH CHANDRA RAJORIYA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri L. C. Patne - Advocate for the petitioner.

Shri Romil Verma - G.A for the respondent/State.

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WRIT PETITION No. 1451 of 2022

RASOOL KHAN

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri L. C. Patne - Advocate for the petitioner.

Shri Romil Verma - G.A for the respondent/State.

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WRIT PETITION No. 1810 of 2022

**OMPRAKASH SISODIYA***Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri L. C. Patne - Advocate for the petitioner.

Shri Romil Verma - G.A for the respondent/State.

ORDER

Regard being had to the similitude of the facts and issues involved in the present case, the same are being disposed of by the common order.

For the sake of convenience, facts are noted from WP No.1436/2022.

The facts of the case are that the petitioner was initially appointed on daily wages basis(Collectorate) on the post of Peon w.e.f. 9.3.1998, by an order dated 1.6.1992 issued by Respondent No. 4 and, thereafter, the petitioner worked till 16.8.1994. in the year 2000, pursuant to a Policy Decision of the State Government for terminating the services of all such daily rated employees who were appointed after 31.12.1988, the services of the petitioner were also terminated. However, upon a Policy Decision being taken by the State Government, dated 21.1.2004 read with Circular dated 12.4.2004, 13.4.2004, 19.4.2004, the petitioner was reinstated back in service on the post of Chowkidar and was posted in ICDS, Tonkakhurd, District Dewas by an order dated 27.8.2004 issued by Respondent No. 3. When the case of the petitioner despite his eligibility, upon completion of 10 years of service was not been considered for regularization, on the post of Peon/Chowkidar, the petitioner alongwith other daily rated employees had approached this Court by filing W.P. No. 7901/2011 and this Court by an



order dated 1.10.2011 disposed of the aforesaid-writ petition with a direction to consider the case of the petitioner for regularization in terms of the Circulars issued by the State Government in this regard, within a period of 6 months from the date of receipt of the certified copy of order. The Directorate of Women and Child Development, Bhopal in its letter dated 22.11.2011 addressed to Respondent No.4 directed to ensure compliance of the order passed by this in W.P. No. 7901/2011 at an early date. By treating the petitioner's services w.e.f. 9.3.1998, he was sanctioned a sum of Rs. 1500/- as additional allowance per month w.e.f. 30.5.2013, by an order dated 30.7.2013 issued by Respondent No.4, vide Sr. No. 6. The Respondent No. 4 by an order dated 9.12.2016 issued pursuant to Circular dated 7.10.2016 has conferred upon the petitioner status of "Sthayi Karmi" and sanctioned him pay scale of Rs. 4000-7000/- under unskilled category w.e.f. 1.9.2016. But while calculating the amount payable to the petitioner after fixation of his pay in the payscale of Rs. 4000-7000/-, the petitioner's services rendered by him w.e.f. 27.5.1992 to 16.8.1994 i.e. two years three months has not been considered. As a result of aforesaid in the matter of recording of wrong date of initial appointment, the petitioner is being paid less regular monthly salary right since 1.9.2016 till date after his classification as Sthayi Karmi.

Being aggrieved by the conferral of Sthayi Karmi status instead of regularization of his services in regular establishment, the similarly situated persons has approached this Court again by filing a Writ Petition No. 1947/2017(S) and this Court disposed off the aforesaid writ petition in National Lok Adalat by order dated 8.4.2017 wherein the Respondents was



directed to consider the claim of the similarly situated persons within a period of 4 months from the date of communication of order. The petitioner brought the order passed by the Court to the notice of Respondents and the Respondent No.4 by a letter dated 28.11.2017 proposed regularization of the petitioner in regular establishment but again the date of appointment of the petitioner has been shown as 6.5.2004 and not 9.3.1998. The petitioner alongwith others submitted representations dated 6.6.2018 and 7.6.2018 addressed to Respondent No. 2 & 3 with a copy thereof to Respondent No.1& 2 making a request for regularization of his services but nothing was heard in the matter. The petitioner further submits that Respondent No. 3, vide his letter dated 14.12.2018 addressed to Respondent No. 2 requested for according its approval over the proposal of regularization of the petitioner on the post of Peon/Chowkidar in regular establishment citing also the available vacancies where the petitioner could easily be regularized. The Respondent No. 4, vide his letter dated 11.10.2021 again requested the Respondent No. 3 to give effect to the recommendations of a duly constituted District Level Screening Committee for regularization of the petitioner on the post of Peon/Chowkidar.

The respondents filed the reply and denied the claim of the petitioner for regularisation. It is submitted that the petitioner was working as daily wager on Collector rate on contract basis. He was appointed in the year 1992 and his services were continued time to time by reappointing him for 89 days. There was a brake in service from 2001 to 2004. It is argued that the petitioner was appointed without following the procedure prescribed under



the recruitment rules for regular appointment. They relied on the judgment passed by the Apex Court in the case of *Secretary, State of Karnataka Vs. Uma Devi & Others, 2006(4) SCC 1* and submitted that the appointment of the petitioner being illegal appointment as the post were not filled up by following the recruitment rules prescribed under the recruitment rules. They also relied on the judgment passed by the Apex Court in the case of *Joshi Technologies International Vs. Union of India and others, reported in. 2015 (7) SCC 728*. The judgment passed in the case of *Smt. Gurusharan Kaur Vs. State of MP & Others passed in W.P.No.14754/2015* decided on 07.02.2017 was also referred. In the aforesaid grounds, it was prayed that the petitioner is liable to be dismissed.

After hearing learned counsel for the parties, the question raised for consideration that whether the petitioner who was appointed in the year 1998 on daily wages is entitled to be regularized or not.

To consider the aforesaid, it is apt to refer the recent judgments regarding regularization of a daily wagger who is working for a long time with the employer. The Apex Court in a recent judgment passed in the case of *Jaggo Vs. Union of India passed in SLP (c) No.5580/2024* decided on 20.12.2024 held as under :-

"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.



11. *The appellants, throughout their tenure, were engaged in performing essential duties that were indispensable to the day-to-day functioning of the offices of the Central Water Commission (CWC). Applicant Nos. 1, 2, and 3, as Safaiwalis, were responsible for maintaining hygiene, cleanliness, and a conducive working environment within the office premises. Their duties involved sweeping, dusting, and cleaning of floors, workstations, and common areas—a set of responsibilities that directly contributed to the basic operational functionality of the CWC. Applicant No. 5, in the role of a Khallasi (with additional functions akin to those of a Mali), was entrusted with critical maintenance tasks, including gardening, upkeep of outdoor premises, and ensuring orderly surroundings.*

12. *Despite being labelled as “part-time workers,” the appellants performed these essential tasks on a daily and continuous basis over extensive periods, ranging from over a decade to nearly two decades. Their engagement was not sporadic or temporary in nature; instead, it was recurrent, regular, and akin to the responsibilities typically associated with sanctioned posts. Moreover, the respondents did not engage any other personnel for these tasks during the appellants' tenure, underscoring the indispensable nature of their work.*

13. *The claim by the respondents that these were not regular posts lacks merit, as the nature of the work performed by the appellants was perennial and fundamental to the functioning of the offices. The recurring nature of these duties necessitates their classification as regular posts, irrespective of how their initial engagements were labelled. It is also noteworthy that subsequent outsourcing of these same tasks to private agencies after the appellants' termination demonstrates the inherent need for these services. This act of outsourcing, which effectively replaced one set of workers with another, further underscores that the work in question was neither temporary nor occasional.*

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.*



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."*

In a case of *Shripal Vs. Nagar Nigam Ghaziabad* passed in Civil

Appeal No.8157/2024, the Apex Court held 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.*

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 disfavours 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 Jaggo v. Union of India 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 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 labeled 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."*

In a recent judgment passed by the Apex Court in the case of ***Dharam Singh VS. State of UP*** passed in ***Civil Appeal NO.8558/2018*** decided on 19.08.2025 considered the cases of Jaggo and Shripal and held as under :-

"13. 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 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."

The court further criticized the ad-hocism and exploitation of an



employee by continuing him for long time in service without regularization. The similar view has been taken by a co-ordinate bench of this Court in the case of *Jairaj Vs. State of MP and Ors passed in WP No.22349/2021* and also in the case of *Ravi Shankar Tripathi Vs. State of MP and Ors* passed in WP No.335/2013 decided on 19.02.2025.

In the light of the aforesaid enunciation of law, the facts of the present case as mentioned in the earlier para of the judgments are reiterated. It is noticed that the petitioner was initially appointed as Daily Rated employee in the year 1998. He was reinstated in service on 24.04.2004. The petitioner filed WP No.7901/2011, which was disposed of directing for regularizaition of his service by order dated 01.10.2011. By order dated 30.06.2013, the petitioner was sanctioned Rs.1500/- as special allowance. The petitioner was conferred status of *Sthayi Karmi* and sanctioned regular pay scale of Rs.4700/-. By order dated 09.12.2016, the petition WP No.1947/2017 filed by him was disposed of directing for regularization of service. By order dated 08.04.2017, his claim for regularization was forwarded by respondent no.4 to respondent no.3 vide letter dated 28.11.2017. In turn, respondent no.3 further forwarded the case of the petitioner for regularization to respondent no.2 vide letter dated 14.12.2018. The respondent no.4 again requested respondent no.3 for granting approval for regularization of the services of the petitioner vide communication dated 11.10.2021.

Thus, this court has already directed to regularize the services of the petitioner and the claim of the petitioner has already been forwarded for regularization.



In view of the aforesaid, the respondent no.2 is directed to pass necessary orders of approval for regularization of service of the petitioner on the letter of the respondent no.3 dated 14.12.2018 within the period of 30 days from the filing of a copy of the order passed today and the services of the petitioners are directed to be regularized from the date they completed 10 years of service and all consequential benefits be granted to them.

The petitions are allowed.

No order as to costs.

(VIJAY KUMAR SHUKLA)
JUDGE

PK/sourabh