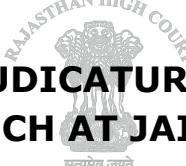




HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR



S.B. Civil Writ Petition No. 3711/2003

Dharam Singh Saini S/o Shri Chotilal Saini, Resident of Khijurwara-ka-Para, Near Bhaga-ka-Hanumanji, P.O. Karoli, Tehsil Hindaun, District Karauli.

----Petitioner

Versus

1. The State of Rajasthan through the Secretary, Commercial Taxation Department, Government Secretariat, Jaipur.
2. The Commissioner, Commercial Taxation, Kara Bhawan, Jaipur.
3. The Deputy Commissioner, Zone II Commercial Taxation, (Administration), Jaipur, Rajasthan.

----Respondents

For Petitioner(s) : Mr. C. P. Sharma, Adv.

For Respondent(s) : Mr. Manaswita Nakhwaal, AAAG with Mr. Kuldeep Singh Rathore, AAAG for Ms. Mahi Yadav, AAG

HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

21/01/2026

1. The present writ petition has been filed invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India, seeking a writ of mandamus directing the respondents to regularize the services of the petitioner and seeking directions to pay to the petitioner equal pay for equal work in regular pay scale of Class IV employee, who has been engaged on muster-roll daily wage basis since April, 1994 @ Rs.9/- per day and has completed services for more than three decades and has continuously discharged duties of a perennial and essential nature. The petitioner further seeks consequential service benefits, contending that the prolonged denial of





regularization is arbitrary, unreasonable, and violative of Articles 14, 16 and 21 of the Constitution.

2. The facts, which are largely undisputed, reveal that the petitioner was initially engaged by the respondent department to meet administrative and functional requirements. Though, the engagement was described as temporary, the petitioner has continued in service uninterrupted for several years and has performed duties identical in nature to those discharged by regularly appointed employees. The petitioner possesses the requisite educational qualifications prescribed for the post and has worked under the direct control and supervision of the respondents. Despite repeated representations, the respondents have not taken any steps to regularize the petitioner's services.

3. *Per contra*, it has been submitted on behalf of the Respondents that the petitioner's engagement was purely temporary/part time and does not confer any right to regularization. Regularization is contingent upon the existence of sanctioned posts and adherence to applicable service rules, and cannot be granted merely on the basis of continuity of service. Moreso, petitioner was not given assurance for appointment to the aforesaid post and for such appointment no such proposal has been sent. The State has acted in accordance with the rules, and there is no illegality or arbitrariness in denying regularization. Granting regularization outside the prescribed framework would undermine structured recruitment, budgetary discipline, and merit-based selection. Therefore, the petitioner is not entitled, and the writ petition is not maintainable and deserves to be dismissed.





4. The principal issue that arises for consideration is whether the petitioner, having rendered long and continuous service while performing duties of a regular and perennial nature, is entitled to regularization, and whether the refusal of the respondents to consider such regularization withstands constitutional scrutiny.

5. At the threshold, it is necessary to reiterate that public employment is governed by constitutional mandates of equality and fairness enshrined under Articles 14 and 16. The law is well settled that regularization cannot be claimed as a matter of right and that appointments made in flagrant violation of recruitment rules cannot be sustained merely on the basis of length of service. However, it is equally well established that constitutional principles do not permit the State to exploit labour by keeping employees in a state of perpetual temporariness while extracting regular and continuous work.

6. The jurisprudence on regularization has evolved through a series of authoritative pronouncements of the Hon'ble Supreme Court. In ***Secretary, State of Karnataka & Others v. Uma Devi (3) & Others, (2006) 4 SCC 1***, the Constitution Bench held that regularization is not a mode of recruitment and that illegal appointments made in contravention of Articles 14 and 16 cannot be regularized as a matter of right. The primary concern of the Court was to prevent backdoor entry into public service. At the same time, the Court carved out a significant exception permitting one-time regularization of employees who had rendered ten years or more of continuous service against





sanctioned posts, possessed requisite qualifications, and whose appointments were not illegal but merely irregular.

7. The contours of this exception were clarified in ***State of Karnataka & Others v. M.L. Kesari & Others, (2010) 9 SCC 247***, wherein the Supreme Court held that the exception

carved out in ***Uma Devi (supra)*** must be applied in a purposive and pragmatic manner. The Court emphasized that the benefit of regularization cannot be denied on hyper-technical grounds or due to the failure of the State to undertake the one-time exercise contemplated in ***Uma Devi (supra)***. Administrative delay or inaction, it was held, cannot operate to the prejudice of long-serving employees.

8. In ***State of Punjab & Others v. Jagjit Singh & Others, (2017) 1 SCC 148***, although the issue directly pertained to pay parity, the Supreme Court reinforced the doctrine of dignity of labour and held that extraction of identical work from temporary or daily-wage employees while denying them equal remuneration amounts to exploitation and violates Article 14. This judgment infused substantive equality into service jurisprudence and laid the groundwork for later decisions addressing prolonged ad-hocism.

9. The recent decisions of the Supreme Court further develop this jurisprudence. In ***Jaggo v. Union of India & Ors., 2024 SCC OnLine SC 3826***, the Court held that mere nomenclature such as "temporary" or "contractual" cannot defeat substantive rights where the employee performs duties that are perennial and essential to the functioning of the establishment.





The Court categorically held that ***Uma Devi (Supra)*** cannot be invoked as a shield to perpetuate exploitative arrangements and that prolonged continuation itself creates an obligation on the employer to rationalize or regularize the engagement.

10. In ***Dharam Singh & Ors. v. State of U.P. & Anr.***,

2025 SCC OnLine SC 1735, the Supreme Court held that the State, as a constitutional and model employer, cannot extract regular work from ad hoc or daily-wage employees without sanctioning posts or initiating regular recruitment. Prolonged ad-hocism was held to be violative of Articles 14, 16 and 21, and executive inaction in creating posts or undertaking recruitment was held to be subject to judicial review.

11. Similarly, in ***Shripal & Anr. v. Nagar Nigam, Ghaziabad***, **2025 SCC OnLine SC 221**, the Supreme Court held

that employees performing essential civic duties on a continuous basis cannot be left in a state of perpetual insecurity. The Court directed reinstatement and mandated initiation of a fair, transparent and time-bound process for regularization, reiterating that perennial public duties cannot be discharged through endlessly temporary arrangements.

12. A conjoint reading of the aforesaid judgments demonstrates that while ***Uma Devi (supra)*** continues to prohibit regularization of illegal appointments, it does not authorize the State to perpetuate ad-hocism, avoid creation of posts, or exploit labour under the guise of constitutional compliance. The focus has decisively shifted from the form of appointment to the substance





of employment, namely the nature of duties, length of service, existence of sanctioned work, and the conduct of the employer.

13. Applying the aforesaid principles to the facts of the present case, this Court finds that the petitioner has rendered long and uninterrupted service, possesses the requisite qualifications, and has performed duties of a perennial and essential nature under the direct control of the respondents. The respondents have failed to demonstrate that the petitioner's engagement was tainted by fraud. The continued engagement of the petitioner without considering regularization reflects administrative arbitrariness and is contrary to the constitutional obligation of the State to act as a model employer.

14. The refusal/inaction to regularize the petitioner, viewed in the light of the law laid down by the Hon'ble Supreme Court in the cases of ***Jaggo (supra)***, ***Dharam Singh (supra)*** and ***Shripal (supra)***, cannot be sustained. To permit the respondents to continue such an arrangement would amount to endorsing exploitation and would defeat the constitutional guarantee of fairness, equality and dignity of labour.

15. Accordingly, the writ petition is allowed, and the respondents are directed as follows:

(i). The respondents shall undertake the exercise of regularizing the services of the petitioner against a sanctioned post corresponding to the nature of duties presently being discharged by the petitioner, in terms of the principles laid down by the Hon'ble Supreme Court.





(ii). Such regularization shall be effected with effect from the date on which the petitioner completed ten years of continuous service, or from such date as may be permissible under the applicable rules or policies, subject to verification of qualifications and eligibility, which shall not be rejected on hyper-technical grounds.

(iii). Upon regularization, the petitioner shall be entitled to continuity of service and all consequential service benefits, including fixation of pay, seniority and pensionary benefits, in accordance with law. However, arrears of salary shall be restricted to a period of three years preceding the filing of the writ petition, unless otherwise permissible under rules.

(iv). The entire exercise shall be completed within a period of three months from the date of receipt of a certified copy of this judgment.

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

(ANAND SHARMA),J

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