AFR

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) Nos.12819,1890,6788,6877,7057,7237,7239,7241,7479,9665, 14038,14039,14041,14042,14044,22724,22726 & 40542 of 2021

In the matter of an application under Article-226 & 227 of the Constitution of India

.....

Muktesh Munda & Others **Petitioners**

....

-versus-

Punjab National Bank & Others .... **Opposite Parties**

For Petitioner : M/s. B. Routray, Sr. Adv.
along with
Mr. J. Biswal, Adv.

For Opp. Parties : M/s. A.C. Swain, Adv.
(for Bank)

PRESENT:

THE HONBLE MR.JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 12.02.2026 and Date of Judgment:06.03.2026

Biraja Prasanna Satapathy, J.

1. Since the claim made in the present batch of Writ Petitions are co-related to each other, all the matters were heard analogously and disposed of by the present common order.

2. While W.P.(C) Nos.12819 of 2021, 14038 of 2021 to 14042 of 2021, 14044 of 2021, 22724 of 2021 and 22726 of 2021 have been filed challenging the rejection of the Petitioners' claim to get the benefit of regularization, W.P(C) Nos.6788, 6877, 7057, 7237, 7239, 7241, 7479 and 9665 of 2021 have been filed by the Petitioners challenging the action of the Bank in issuing the Advertisement on different dates to fill up the posts in which Petitioners are continuing. Similarly W.P.(C) Nos.1890 and 40542 of 2021 have been filed seeking a direction on the Opp. party-Bank to regularize the services of the Petitioners therein.

3. It is the case of the Petitioners that all the Petitioners are working in different branches of Punjab National Bank as Part Time Sweeper on daily wage basis from different dates. It is contended that all the Petitioners are continuing on daily wage basis as Part Time Sweeper and all were so engaged, while United Bank of India was functioning as a Government of India undertaking. It is however contended that while so continuing under the erstwhile United Bank of India, the

said Bank along with Oriental Bank of Commerce merged with Punjab National Bank in terms of the Scheme of Amalgamation.

3.1. It is contended that after being amalgamated with Punjab National Bank, General Secretary, All India Punjab National Bank Employees Federation vide letter dt.04.04.2020 under Annexure-2, requested the CEO, Punjab National Bank-Opp. party No.1 to absorb the temporary/adhoc employees (workmen) working in the erstwhile United Bank of India and Oriental Bank of Commerce in permanent service. However, on the face of such request made by the Employees Federation, when the Opp. Party-Bank issued various Advertisements to fill up Group-D posts on regular basis, the same was assailed by the Petitioners in various Writ Petitions so indicated here-in-above. This Court while issuing notice of the matter has also protected the interest of the Petitioners herein.

3.2. It is also contended that as per letter dt.05.01.2021, so issued under Annexure-4, the Bank is in the process to fill up 3800 subordinate posts by way

of Direct recruitment. It is contended that taking into account the long continuance of the Petitioners as Part Time Sweeper in different branches of the Opp. Party-Bank, request made by the Employees Federation under Annexure-2, availability of 3800 subordinate posts, Petitioners approached this Court, seeking regularization of their services against such available 3800 subordinate posts in W.P.(C) No.1866 of 2021.

3.3. This Court vide order dt.27.01.2021 when permitted the Petitioners herein to move the Opp. Party-Bank, claiming the benefit of absorption in the regular establishment, Petitioners raised their claim before the General Manager of the Bank-Opp. party No.2. However, vide the impugned order dt.22.03.2021, such claim of the Petitioners was rejected on various grounds inter alia (a)that the Part Time Sweepers are never recruited by facing due recruitment process, (b) no employee can make a claim for regularization/absorption in the bank dehors the bank's Rules/guidelines, (c) such subordinate posts are

to be filled up by calling from candidates from Employment Exchange or by publishing advertisements.

3.4. Learned Sr. Counsel appearing for the Petitioners contended that since Petitioners were all engaged as Part Time Sweepers on daily wage basis in the erstwhile United Bank of India on different dates, starting from the year 2011 onwards and they are also continuing as such after amalgamation of United Bank of India and Oriental Bank of Commerce with Punjab National Bank w.e.f 1.4.2020, the ground on which their claim for regularization has been rejected is not sustainable in the eye of law.

3.5. It is also contended that since 3800 Subordinate posts are available and advertisement issued by the Bank to fill up those posts are under challenge in the present batch of Writ Petitions with Petitioners being protected, Petitioners can very well be absorbed against such available vacant Subordinate Posts. It is also contended that in view of such long continuance of the Petitioners as Part Time Sweepers on daily wage basis starting from the year 2011 onwards, claim for

regularization, which has been illegality rejected vide the impugned order dt.22.03.2021 is no more sustainable, in view of the recent decisions of the Hon'ble Apex Court in the case of ***Jaggo vs. Union of India & Ors., 2024 SCC OnLine SC 3826; Shripal & Anr. vs. Nagar Nigam, Ghaziabad, 2025 SCC OnLine SC 221*** as well as ***Dharam Singh & Ors. vs. State of U.P. & Anr. (Civil Appeal No(s).8558 of 2018*** and lastly in the case of ***Bhola Nath Vs. State of Jharkhand and Others***, 2026 INSC 99. Hon'ble Apex Court in the case of ***Jaggo, Shripal, Dharam Singh and Bholanath*** has held as follows:

3.6. View expressed by the Hon'ble Apex Court in the case of ***Jaggo*** in Para-22 to 25 and 27 reads 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.

23. The International Labour Organization (ILO), of which India is a founding member, has consistently advocated for employment stability and the fair treatment of workers. The ILO's Multinational Enterprises Declaration6 encourages companies to provide stable employment and to observe obligations concerning employment stability and social security. It emphasizes that enterprises should assume a leading role in promoting employment security, particularly in contexts where job discontinuation could exacerbate long-term unemployment.

24. The landmark judgement of the United State in the case of Vizcaino v. Microsoft Corporation7 serves as a pertinent example from the private sector, illustrating the consequences of misclassifying employees to circumvent
providing benefits. In this case, Microsoft classified certain workers as independent contractors, thereby denying them employee benefits. The U.S. Court of Appeals for the Ninth
Circuit determined that these workers were, in fact, common-law employees and were entitled to the same benefits as regular employees. The Court noted that large Corporations have increasingly adopted the practice of hiring temporary employees or independent contractors as a means of avoiding payment of employee benefits, thereby increasing their profits. This judgment underscores the principle that the nature of the work performed, rather than the label assigned to the worker, should determine employment status and the corresponding rights and benefits. It highlights the judiciary's role in rectifying such misclassifications and ensuring that workers receive fair treatment.

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.

xxxx xxxx xxxx xxxxx

27. In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards

and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country."

3.7. Hon'ble Apex Court in the case of ***Shripal*** in Para-*14, 15, 17 & 18(IV) has held as follows:-*

"14. ..... More importantly, Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment.

15. ..... Indian labour law strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature.

xxxx xxxxx xxxxx xxxxxx

17. Indeed, bureaucratic limitations cannot trump the legitimate rights of workmen who have served continuously in de facto regular roles for an extended period.

18.(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."

3.8. Placing reliance on the decision in the case of ***Jaggo and Shripal***, Hon'ble Apex Court in the case of ***Dharam Singh,*** in Paragraph-13, 14, 15 & 17, 18, 19 & 20 has held as follows:

"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.*

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 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.*

xxx xxx xxx

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 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 an institutional 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 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 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 Judgment.

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.

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 grace, but obligations under Articles 14, 16 and 21 of the Constitution of India."*

3.9. It is contended that in the recent decision of the Hon'ble Apex Court in the case of ***Bhola Nath*** so cited (supra), Hon'ble Apex Court in Para-13.5 to 14 of the judgment has held as follows:-

> *"13.5. Such a decision must necessarily be a conscious and reasoned one. An employee who has satisfactorily discharged his duties over several years and has been granted repeated extensions cannot, overnight, be treated as surplus or undesirable. We are unable to accept the justification advanced by the respondents as the obligation of the State, as a model employer, extends to fair treatment of its employees irrespective of whether their engagement is contractual or regular.*
>
> *13.6. This Court has, on several occasions, deprecated the practice adopted by States of engaging employees under the nominal labels of "part-time", "contractual" or "temporary" in perpetuity and thereby exploiting them by not regularizing their positions. In **Jaggo v. Union of India**, this Court underscored that government departments must lead by example in ensuring fair and stable employment, and evolved the test of examining whether the duties performed by such temporary employees are integral to the day-to-day functioning of the organization.*
>
> *13.7. In **Shripal v. Nagar Nigam**, and **Vinod Kumar v. Union of India**, this Court cautioned against a mechanical and blind reliance on **Umadevi** (supra) to deny regularization to temporary employees in the absence of statutory rules. It was held that **Umadevi** (supra) cannot be employed as a shield to legitimise exploitative engagements continued for years without undertaking regular recruitment. The Court further clarified that Umadevi itself draws a distinction between appointments that are "illegal" and those that are merely "irregular", the latter being amenable to regularization upon fulfilment of the prescribed conditions.*
>
> *13.8. In **Dharam Singh v. State of U.P.**, this Court strongly deprecated the culture of "ad-hocism" adopted by States in their capacity as employers. The Court criticised the practice of outsourcing or informalizing recruitment as a means to evade regular employment obligations, observing that such measures perpetuate*

precarious working conditions while circumventing fair and lawful engagement practices.

13.9. The State must remain conscious that part-time employees, such as the appellants, constitute an integral part of the edifice upon which the machinery of the State continues to function. They are not merely ancillary to the system, but form essential components thereof. The equality mandate of our Constitution, therefore, requires that their service be reciprocated in a manner free from arbitrariness, ensuring that decisions of the State affecting the careers and livelihood of such part-time and contractual employees are guided by fairness and reason.

13.10. In the aforesaid backdrop, we are unable to persuade ourselves to accept the respondent-State's contention that the mere contractual nomenclature of the appellants' engagement denudes them of constitutional protection. The State, having availed of the appellants' services on sanctioned posts for over a decade pursuant to a due process of selection and having consistently acknowledged their satisfactory performance, cannot, in the absence of cogent reasons or a speaking decision, abruptly discontinue such engagement by taking refuge behind formal contractual clauses. Such action is manifestly arbitrary, inconsistent with the obligation of the State to act as a model employer, and fails to withstand scrutiny under Article 14 of the Constitution.

FINAL CONCLUSION:

14. In light of our discussion, in the foregoing paragraphs, we summarize our conclusions as follows:

I. The respondent-State was not justified in continuing the appellants on sanctioned vacant posts for over a decade under the nomenclature of contractual engagement and thereafter denying them consideration for regularization.

II. Abrupt discontinuance of such long-standing engagement solely on the basis of contractual nomenclature, without either recording cogent reasons or passing a speaking order, is manifestly arbitrary and violative of Article 14 of the Constitution.

III. Contractual stipulations purporting to bar claims for regularization cannot override constitutional guarantees. Acceptance of contractual terms does not amount to waiver of fundamental rights, and contractual stipulations cannot immunize arbitrary State action from constitutional scrutiny.

*IV. The State, as a model employer, cannot rely on contractual labels or mechanical application of **Umadevi** (supra) to justify prolonged ad-hocism or to discard long-serving employees in a manner inconsistent with fairness, dignity and constitutional governance.*

V. In view of the foregoing discussion, we direct the respondent-State to forthwith regularize the services of all the appellants against the sanctioned posts to which they were initially appointed. The appellants shall be entitled to all consequential service benefits accruing from the date of this judgment."

4. Mr. Anand Chandra Swain, learned counsel appearing for the Opp.Party-Bank on the other hand made his submission basing on the stand taken in the counter affidavit so filed.

4.1. First of all, it is contended that Petitioners are engaged on temporary basis with stop-gap arrangement and each case is a separate one with distinct facts and circumstances and a joint Writ Petition is not maintainable.

4.2. It is also contended that the Writ Petitions are not maintainable as the Petitioners since are claiming to be workman under the Bank, they have to approach the Labour Forum under the Industrial Disputes Act, 1947 and a Writ Petition under Article 226 of the Constitution of India is not maintainable.

4.3. It is further contended that since all the Petitioners are continuing as Part Time Sweepers intermittently as per requirement and there is no continuity of service, they are not eligible and entitled to get the benefit of regularization. It is also contended that since the Petitioners are all engaged as Part Time Sweepers without following due recruitment process, they are also not eligible and entitled to get the benefit of regularization, which has been rightly rejected vide the impugned order dt.22.03.2021.

4.4. Not only that, on a similar issue, this Court in W.P.(C) No.26264 of 2021 vide order under Annexure-C/1 held that appropriate forum is the Labour Forum, where grievance of the Petitioners has to be made. Since without availing the alternative remedy of approaching Labour Forum under the Industrial Disputes Act, the present Writ Petitions have been filed, the same are not entertainable.

4.5. Learned counsel appearing for the Opp. party-Bank made further submissions contending that all the Petitioners since are continuing because of the interim order passed in the connected Writ Petitions, wherein

challenge has been made to the Advertisements issued by the Bank on different dates to fill up the posts of Subordinate Staff by way of Direct recruitment, their claim is also not covered by the decision of the Hon'ble Apex Court in the case of ***Secretary, State of Karnataka and Others Vs. Uma Devi & Others, 2006 (4) SCC 1.***

4.6. With regard to the alternate remedy available to the Petitioners and accordingly the Writ Petitions are not maintainable, reliance was placed to the decisions of the Hon'ble Apex Court in the following Cases:

> **1.** A.P. Foods V. S. Samuel & Others, (2006) 5 SCC 469.
>
> **2.** U.P. State Bridge Corporation Vs. U.P. Rajya Setu Nigam, (2004) 4 SCC 268
>
> **3**. In City and Industrial Development Corporation Vs. *Dosu Aardeshir Bhiwandiwala* & Others (2009) 1 SCC 168.

4.7. Hon'ble Apex Court in the case of ***S. Samuel*** in paragraph-3,4,5,6,7 & 8 has held as follows:

> ***3.*** *Learned counsel for the appellant submitted that on a combined reading of Sections 20, 22 and 32(v)(c) of the Act, the inevitable conclusion is that the writ petition should not have been entertained. Further, Section 22 clearly stipulates that the dispute raised is an industrial*

dispute under the Industrial Disputes Act, 1947 (in short "the ID Act"). Since disputed questions of fact were involved, the writ petition should not have been entertained.

4. *In response, learned counsel for the writ petitioner-respondents submitted that in view of the established factual position, the High Court was justified in entertaining the writ petition and deciding in favour of the writ petitioners.*

5. *Sections 20, 22 and 32(v)(c) read as follows:*

"20. Application of Act to establishments in public sector in certain cases.—(1) If in any accounting year an establishment in public sector sells any goods produced or manufactured by it or renders any services, in competition with an establishment in private sector, and the income from such sale or services or both is not less than twenty per cent of the gross income of the establishment in public sector for that year, then, the provisions of this Act shall apply in relation to such establishment in public sector as they apply in relation to a like establishment in private sector.

(2) Save as otherwise provided in sub-section (1), nothing in this Act shall apply to the employees employed by any establishment in public sector.

***

22. Reference of disputes under the Act.—Where any dispute arises between an employer and his employees with respect to the bonus payable under this Act or with respect to the application of this Act to an establishment in public sector, then, such dispute shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), or of any corresponding law relating to investigation and settlement of industrial disputes in force in a State and the provisions of that Act or, as the case may be, such law, shall, save as otherwise expressly provided, apply accordingly.

***

32. Act not to apply to certain classes of employees.—
***

***

(v) employees employed by—

***

(c) institutions (including hospitals, chambers of commerce and social welfare institutions) established not for purposes of profit;"

6. *In a catena of decisions it has been held that a writ petition under Article 226 of the Constitution of India should not be entertained when the statutory remedy is*

available under the Act, unless exceptional circumstances are made out.

7. *In U.P. State Bridge Corpn. Ltd. v. U.P. Rajya Setu Nigam S. Karamchari Sangh [(2004) 4 SCC 268 : 2004 SCC (L&S) 637] it was held that when the dispute relates to enforcement of a right or obligation under the statute and specific remedy is, therefore, provided under the statute, the High Court should not deviate from the general view and interfere under Article 226 except when a very strong case is made out for making a departure. The person who insists upon such remedy can avail of the process as provided under the statute. To the same effect are the decisions in Premier Automobiles Ltd. v. Kamlekar Shantaram Wadke [(1976) 1 SCC 496 : 1976 SCC (L&S) 70] , Rajasthan SRTC v. Krishna Kant [(1995) 5 SCC 75 : 1995 SCC (L&S) 1207 : (1995) 31 ATC 110] , Chandrakant Tukaram Nikam v. Municipal Corpn. of Ahmedabad [(2002) 2 SCC 542 : 2002 SCC (L&S) 317] and Scooters India v. Vijai E.V. Eldred [(1998) 6 SCC 549 : 1998 SCC (L&S) 1611] .*

8. *In Rajasthan SRTC case [(1995) 5 SCC 75 : 1995 SCC (L&S) 1207 : (1995) 31 ATC 110] it was observed as follows : (SCC pp. 91-92, para 28)*

"[A] speedy, inexpensive and effective forum for resolution of disputes arising between workmen and their employers. The idea has been to ensure that the workmen do not get caught in the labyrinth of civil courts with their layers upon layers of appeals and revisions and the elaborate procedural laws, which the workmen can ill afford. The procedures followed by civil courts, it was thought, would not facilitate a prompt and effective disposal of these disputes. As against this, the courts and tribunals created by the Industrial Disputes Act are not shackled by these procedural laws nor is their award subject to any appeals or revisions. Because of their informality, the workmen and their representatives can themselves prosecute or defend their cases. These forums are empowered to grant such relief as they think just and appropriate. They can even substitute the punishment in many cases. They can make and remake the contracts, settlements, wage structures and what not. Their awards are no doubt amenable to jurisdiction of the High Court under Article 226 as also to the jurisdiction of this Court under Article 32, but they are extraordinary remedies subject to several self-imposed constraints. It is, therefore, always in the interest of the workmen that disputes concerning them are adjudicated in the forums created by the Act and not in a civil court. That is the entire policy underlying the vast array of enactments concerning workmen. This legislative policy and intendment should

necessarily weigh with the courts in interpreting these enactments and the disputes arising under them."

4.8. Hon'ble Apex Court in the case of ***U.P. State Bridge Corporation*** in paragraph-11 & 12 has held as follows:

11.We are of the firm opinion that the High Court erred in entertaining the writ petition of the respondent-Union at all. The dispute was an industrial dispute both within the meaning of the Industrial Disputes Act, 1947 as well the UPIDA, 1947. The rights and obligations sought to be enforced by the respondent-Union in the writ petition are those created by the Industrial Disputes Act. In The Premier Automobiles Ltd. V. Kemlekar Shantaram Wadke 1976 (1) SCC 496, it was held that when the dispute relates to the enforcement of a right or an obligation created under the Act, then the only remedy available to the claimant is to get adjudication under the Act. This was because the Industrial Disputes Act was made to provide " a speedy, inexpensive and effective forum for resolution of disputes arising between workmen and their employers. The idea has been to ensure that the workmen do not get caught in the labyrinth of civil courts with their layers upon layers of appeals and revisions and the elaborate procedural laws, which the workmen can ill afford. The procedure followed by civil courts, it was thought, would not facilitate a prompt and effective disposal of these disputes. As against this, the courts and tribunals created by the Industrial Disputes Act are not shackled by these procedural laws nor is their award subject to any appeals or revisions. Because of their informality, the workmen and their representatives can themselves prosecute or defend their cases. These forums are empowered to grant such relief as they think just and appropriate. They can even substitute the punishment in many cases. They can make and re-make the contracts, settlement, wage structures and what not. Their awards are no doubt amenable to jurisdiction of the High Court under Article 226 as also to the jurisdiction of this Court under Article 32, but they are extraordinary remedies subject to several self-imposed constraints. It is, therefore, always in the interest of the workmen that disputes concerning them are adjudicated in the forums created by the Act and not in a civil court. That is the entire policy underlying the vast array of enactments concerning workmen. This legislative policy and intendment should necessarily weigh with the courts in interpreting these enactments and the disputes arising under them".

12. Although these observations were made in the context of the jurisdiction of the Civil Court to entertain the proceedings relating to an industrial dispute and may not be read as a limitation on the Court's powers under Article 226, nevertheless it would need a very strong case indeed for the High Court to deviate from the principle that where a specific remedy is given by the statute, the person who insists upon such remedy can avail of the process as provided in that statute and in no other manner.

4.9. Hon'ble Apex Court in the case of ***Dosa Anadesh Bhivandiwala*** in paragraph-29 & 30 has held as follows:

29. *In our opinion, the High Court while exercising its extraordinary jurisdiction under Article 226 of the Constitution is duty-bound to take all the relevant facts and circumstances into consideration and decide for itself even in the absence of proper affidavits from the State and its instrumentalities as to whether any case at all is made out requiring its interference on the basis of the material made available on record. There is nothing like issuing an ex parte writ of mandamus, order or direction in a public law remedy. Further, while considering the validity of impugned action or inaction the Court will not consider itself restricted to the pleadings of the State but would be free to satisfy itself whether any case as such is made out by a person invoking its extraordinary jurisdiction under Article 226 of the Constitution.*

30. *The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:*

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.

The Court in appropriate cases in its discretion may direct the State or its instrumentalities as the case

may be to file proper affidavits placing all the relevant facts truly and accurately for the consideration of the Court and particularly in cases where public revenue and public interest are involved. Such directions are always required to be complied with by the State. No relief could be granted in a public law remedy as a matter of course only on the ground that the State did not file its counter-affidavit opposing the writ petition. Further, empty and self-defeating affidavits or statements of Government spokesmen by themselves do not form basis to grant any relief to a person in a public law remedy to which he is not otherwise entitled to in law.

4.10. It is also contended that since Petitioners were never appointed against sanctioned posts by facing due recruitment process and engagement of the Petitioners is purely casual, intermittent and stop gap depending on exigency, such engagement are not irregular appointments, but completely illegal appointment.

4.11. Therefore, in view of the decision of the Hon'ble Apex Court in the case of ***Uma Devi*** so cited supra, such illegal appointees are not eligible and entitled to continue nor they are eligible and entitled to get the benefit of absorption in the regular establishment. But, because of the interim order passed by this Court, Petitioners are continuing It is accordingly contended that Petitioners have to approach

the Labour Forum under the Industrial Disputes Act and the Writ Petition under Article 226 is not at all maintainable.

5. To the submission made by the learned counsel appearing for the Bank, learned Sr.Cousnel appearing for the Petitioners made further submission contending inter alia that in view of the recent decisions of the Apex Court in the case of Jaggo, Shripal, Dharam Singh & Bholanath so cited supra, this Writ Petitions are very much entertainable, which have been filed challenging the rejection of the claim of the Petitioners for their absorption in the regular post of Subordinate Staffs and so also challenging the advertisements issued by the Bank in filling the available 3800 nos. of Subordinate posts by way of direct recruitment.

5.1. It is contended that only when without absorbing the Petitioners, the Bank issued the advertisement to fill-up the posts of Subordinate Staffs by way of direct recruitment and challenge was made to such illegal action of the Opp. Party-Bank, this court while issuing notice of the matter, passed the interim order protecting

the interest of the Petitioners only in 2021. Hence, it cannot be said that Petitioners are continuing because of the interim orders all through. It is accordingly contended that this Court directs the Opp. Party-Bank to absorb the Petitioners against the available posts of Subordinate Staffs by quashing the rejection of their claim.

6. Having heard learned counsel appearing for the parties and considering the submission made, this Court finds that all the Petitioners were engaged as Part Time Sweeper on daily wage basis in the erstwhile United Bank of India from the year 2011onwards. It is not disputed that United Bank of India along with Oriental Bank of Commerce merged with Punjab National Bank w.e.f 1.4.2020. Even after such merger of United Bank of India and Oriental Bank of Commerce with Punjab National Bank w.e.f 01.04.2020, Petitioners are continuing as Part Time Sweeper in different branches of the Bank.

6.1. As found from the record, after such merger of the Bank with Punjab National Bank, All India Punjab

National Bank Employees Federation vide letter dt.04.04.2020 under Annexure-2, requested the management of the Bank to absorb such employees of the erstwhile United Bank of India and Oriental Bank of Commerce against permanent posts, available with the Opp. Party-Bank.

6.2. It is found that on the face of such request made by the Employees Federation and the continuance of the Petitioner as Part Time Sweeper on daily wage basis w.e.f the year 2011, when the Opp. Party-Bank instead of absorbing the Petitioners, issued various advertisements to fill up the posts of Subordinate Staff by way of Direct recruitment, challenging such advertisements, Petitioners have approached this Court in various Writ Petitions, connected with the present batch. This Court while issuing notice of the matter, has protected the interest of the Petitioners.

6.3. Since it is not disputed that all the Petitioners are continuing as Part Time Sweeper on daily wage basis on different dates starting from the year 2011, this Court is unable to accept the contention of the learned Counsel

appearing for the Opp. Party-Bank that Petitioners being workmen, they have to approach the Labour Forum under the Industrial Disputes Act.

6.4. Since it is not disputed that Petitioners are all working on daily wage basis as Part Time Sweeper in different branches of the Bank, it is the view of this Court that the present Writ Petition challenging the rejection of their claim to get the benefit of regularization, vide the impugned communication dt.22.03.2021, is very much maintainable before this Court.

6.5. Since all the Petitioners engaged by the erstwhile United Bank of India and as per the policy of Amalgamation, the Opp. Party-Bank took over the assets and liabilities of United Bank of India as well as Oriental Bank of Commerce w.e.f 1.4.2020, it cannot be held that there is no employer and employee relationship in between the Petitioners and the Opp. party-Bank.

6.6. Since all the Petitioners are continuing as Part Time Sweeper starting from the year 2011, this Court is

also unable to accept the stand of the Opp. Party-Bank that all the engagement of the Petitioners are illegal and not irregular.

6.7. In view of the aforesaid analysis, this Court is of the view that the ground on which Petitioners' claim for regularization has been rejected vide the impugned order dt.22.03.2021 and the action of the Opp. Party-Bank in issuing the advertisements to fill-up the posts of Subordinate Staffs by way of direct recruitment is not sustainable in the eye of law. While quashing the order, so far as rejection of the claim for regularization is concerned, this Court directs Opp. Party Nos.1 & 2 to take a fresh decision on the Petitioners' claim, taking into account the decision in the case ***of Jaggo, Shripal, Dharam Singh and Bholanath*** as cited supra within a period of 2(two) months from the date of receipt of this order.

6.8. In those cases where no such rejection is available, this Court directs Opp. party-Bank to consider the Petitioners' claim therein to get the benefit of regularization in the light of the judgment in case of

Jaggo, Shripal, Dharam Singh and Bholanath within the aforesaid time period.

6.9. Till a decision is taken, interim order passed by this Court, wherein challenge had been made to the advertisements in question shall continue.

7. All the Writ Petitions are accordingly stand disposed of with the aforesaid observation and direction.

Photocopy of the order be placed in the connected cases.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 6th March, 2026 / Sangita