



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S. B. Civil Writ Petition No. 7978/2020

PETITIONER:-

Shyam Lal S/o Bastaram, aged about 40 years, R/o Ambedkar Nagar, Shivbadi Road, Bikaner.

Versus

RESPONDENTS:-

1. Senior Chemist, Public Health and Engineering Department, Regional Laboratory, Bikaner, Rajasthan.
2. Chief Chemist, Public Health and Engineering Department, Jaipur, Rajasthan.

For Petitioner : Mr. Parvez Khan Moyal Advocate.
For Respondents : Mr. P.S. Chundawat Advocate with Mr. Mayank Vyas Advocate.

HON'BLE MR. JUSTICE ANAND SHARMA
Judgment

02/04/2026

1. This writ petition has been filed by the petitioner with following prayer:

"It is, therefore, most humbly and respectfully prayed that the writ petition filed by the petitioner may kindly be allowed and by an appropriate writ, order or direction:-

1) That respondents may kindly be directed to declare petitioner semi-permanent employee or permanent employee status, by giving benefit of continuing of service, and also grant fixation on regular pay scale to him on the post of watchman from the date of his initial appointment, by giving notional benefits to him in pay scale and other service benefits regarding the service enjoyed by the other employees of the department at par.

2) That respondents may kindly be directed to disburse the wages from the date of award to the date of reinstatement of petitioner, as per the law.

3) That Any other appropriate order or direction by which this Hon'ble court considers just and proper in the facts and circumstances of the present case, may kindly be passed in favour of the petitioner.

4) Costs the writ petition may kindly be awarded to the petitioner."



2. Learned counsel for the petitioner submitted that the petitioner was initially engaged as daily wage employee on 07.02.1997. However, services of the petitioner were illegally terminated in violation of Section 25F of the Industrial Disputes Act, 1947 (hereinafter to be referred as 'the Act of 1947'), which was challenged by the petitioner initially by raising an industrial dispute under the provisions of the Act of 1947 and the same was ultimately referred to the Labour Court, Bikaner (hereinafter to be referred as 'the Labour Court'). The reference was answered by the Labour Court vide award dated 04.08.2014, whereby, while declaring termination of services of the petitioner as illegal, direction was issued to reinstate the petitioner back in service along with benefit of continuity in service.

3. Learned counsel for the petitioner submits that the award passed by the Labour Court was challenged by the respondents by way of filing S.B. Civil Writ Petition No. 9719/2014, which was dismissed by this Court vide order dated 05.10.2016. Feeling aggrieved, the respondents unsuccessfully challenged that order before the Division Bench of this Court and D.B. Special Appeal (Writ) No. 1086/2017 filed by the respondents was also dismissed vide judgment dated 12.01.2018.

4. As per learned counsel for the petitioner, thereafter, although the respondents also approached the Hon'ble Supreme Court, yet, Special Leave Petition (SLP) filed by the respondents was dismissed by the Hon'ble Supreme Court.





5. Learned counsel for the petitioner submits that thereafter, the petitioner was reinstated back in service by the respondents, however, he is being paid meagre salary. Learned counsel submits that the petitioner has been discharging same duties, which are being discharged by regular employees, yet he has not been considered for regularisation and is being exploited by making payment of negligible amount against his regular services.

6. In support of his argument, learned counsel for the petitioner relied upon the decision of this Court at Jaipur Bench in the case of **Dharam Singh Saini vs. The State of Rajasthan & Others (S.B. Civil Writ Petition No. 3711/2003 decided on 21.01.2026)**.

7. Per contra, learned counsel for the respondents opposed the writ petition and submitted that the petitioner was not engaged on any sanctioned post, nor was there any regular process of selection followed prior to appointment of the petitioner. Learned counsel submits that the petitioner was engaged in order to discharge overburden of work and, therefore, services of the petitioner were terminated in the year 2001. Learned counsel submits that as the petitioner has been reinstated and is being continued pursuant to orders passed by the Labour Court confirmed up to the Hon'ble Supreme Court, therefore, it cannot be treated that the petitioner is being continued by the department on its own.

8. Learned counsel for the respondents relied upon the decision of the Hon'ble Supreme Court in the case of **Secretary,**



**State of Karnataka & Others v. Uma Devi (3) & Others,**

(2006) 4 SCC 1 to deny claim raised by the petitioner and submitted that the Hon'ble Supreme Court in the above case has deprecated the practice of firstly appointing an employee through irregular modes and then granting them benefit of regularisation.

In view of his submissions, learned counsel for the respondents prayed for dismissal of the instant writ petition.

9. I have heard learned counsel for the parties and perused the record.

10. It is not in dispute that the petitioner was initially engaged in the year 1997 and is still continuing in the service of the respondents. It is also a matter of fact that despite petitioner's engagement more than 28 years back, he is not being paid regular pay scale by the respondents.

11. The plea raised by learned counsel for the respondents that the petitioner was engaged only for *ad-hoc* purposes as well as to discharge overburden of work has already been examined by the Labour Court in its award dated 04.08.2014 and the termination of the petitioner with effect from 30.04.2001 was held illegal with further direction to reinstate the petitioner back in service with continuity in service. The award passed by the Labour Court has been examined by this Court and thereafter, by the Hon'ble Supreme Court. Thus, the fact remains that the petitioner is still in the employment of the respondent-department for more than two decades, yet he has been deprived of his right to be considered for regularisation.



12. Similar issue has been examined by this Court in the case of **Dharam Singh Saini (supra)**, where after considering the decisions of the Hon'ble Supreme Court in the cases of **Secretary, State of Karnataka & Others v. Uma Devi (3) & Others (supra)**, **State of Karnataka & Others v. M.L. Kesari & Others, (2010) 9 SCC 247**, **State of Punjab & Others v. Jagjit Singh & Others, (2017) 1 SCC 148**, **Jaggo v. Union of India & Ors., 2024 SCC OnLine SC 3826**, **Dharam Singh & Ors. v. State of U.P. & Anr., 2025 SCC OnLine SC 1735** and **Shripal & Anr. v. Nagar Nigam, Ghaziabad, 2025 SCC OnLine SC 221**, following observations and findings were recorded by this Court:

"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."*

13. In view of the foregoing discussion, this Court deems it just and proper to exercise writ jurisdiction in favour of the petitioner. Accordingly, writ petition filed by the petitioner is allowed. The respondents are directed to consider the case of the petitioner for regularisation in service in the light of judgments of the Hon'ble Supreme Court in the cases of **Jaggo (supra)**, **Dharam Singh (supra)** and **Shripal & Anr. (supra)**, as referred to hereinabove. In case, the petitioner is found suitable for regularisation in the light of aforesaid decisions, he would be granted benefit of regularisation in service along with all consequential benefits including fixation of pay, seniority and other service benefits as admissible under the rules. However, the arrears of pay shall be restricted to a period of three years preceding filing of the writ petition. Entire exercise as directed above shall be conducted and concluded by the respondents within a period of 60 days from the date of receipt of certified copy of this judgment.

14. Pending applications, if any, stand disposed of.

(ANAND SHARMA),J

MANOJ NARWANI-194.