



2026:AHC:183262

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 32582 of 2016

Dharmendra Kumar Vishwakarma

.....Petitioner(s)

Versus

State Of U.P.Thru.Secy. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Dharmendra Pratap Singh Chauhan, Shesh Kumar Srivastava, Siddharth Khare, Sr. Advocate
Counsel for Respondent(s)	: C.S.C., Jai Bahadur Singh

Court No. - 34

AFR

Reserved on 20.07.2026

Delivered on 02.09.2026

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Shesh Kumar Srivastava, learned counsel for the petitioner, Sri Jai Bahadur Singh, learned counsel appearing for the respondent no. 2 and Sri Rajiv Gupta, learned Addl. C.S.C. for the State respondents.

2. The instant petition has been filed by the petitioner seeking quashing of the order dated 28.04.2016, passed by the respondent no. 2, whereby the petitioner was regularized with effect from the date of the order. The petitioner has further prayed that his regularisation be treated w.e.f. 28.03.1992, when he was initially engaged or at least from 20.12.2001, when the UP Regularization of Ad-Hoc Appointments (on Posts Outside the Purview of Public Service Commission) (Third Amendment) Rules 2001 came into force.

3. Briefly stated facts of the case are that the petitioner herein was appointed on the post of Munshi on ad hoc basis by the order dated 28.03.1992, passed by the respondent no. 3, Deputy Director of Irrigation Water Resource Department, Chandrapuri, Sambhal and the petitioner has continued to work on ad hoc basis on regular pay-scale. In the seniority

list, which was prepared by the respondents on 28.09.2001 with regard to the ad hoc employees working with the respondents. The name of the petitioner was placed at Serial No. 74. The petitioner was granted the regular pay-scale and benefits of various increments including the benefits under the Assured Career Progression (ACP) Scheme time to time. However, he was not regularized and vide the impugned order dated 28.04.2016, though the petitioner has been regularized in terms of the UP Regularization of Ad-Hoc Appointments (on Posts Outside the Purview of Public Service Commission) Rules, 1979 as amended by the third amendment, which came into effect w.e.f. 20.12.2001. Now, he claims and is aggrieved that the regularization is being granted from the date of order dated 28.04.2016 and not from his initial appointment date 28.03.1992 or alternatively from the date when the Third Amendment Rules, 2001 came into effect.

4. Learned counsel for the petitioner submits that he became eligible for regularization in terms of Third Amendment Rules 2001 on 20.12.2001. Therefore, his regularization ought to have been granted from the date of the eligibility for regularization, if not from the date of his initial appointment.

5. Learned counsel for the petitioner further submits that in terms of the Third Amendment Rules 2001, the petitioner became eligible in terms of Rule 4 as he was directly appointed on ad hoc basis on or before 30.06.1998 and had possessed the requisite qualification prescribed for regular appointment at the time of such ad hoc appointment and had completed three years service. Therefore, he was entitled to be regularized with effect from his initial appointment.

6. In support of his submissions, learned counsel for the petitioner has relied upon the following judgments:

1. Chief General Manager, RBI vs. General Secretary, Reserve Bank of India (Civil Appeal No. 1039 of 2001 dated 05.02.2001)

2. Sukhendu Bhattacharjee and others Vs. State of Assam :

2026 INSC 523

3. Narender Singh Vs. State of Haryana : 2022 (3) SCC 286

4. Kumari Laxmi Saroj and Others vs. State of U.P. and Others
: 2022 (17) SCC 477

7. *Per contra*, learned Standing Counsel for the States submits that the appointment of the petitioner was not through proper procedure and was made *dehors* the rules and in the appointment letter dated 28.03.1992 itself it was categorically mentioned that his services are purely temporary, ad hoc and can be terminated at any point of time without after giving one month's notice and at any point of time.

8. Learned Additional Chief Standing Counsel further submits that the services of the petitioner are governed by the U.P. Regularization of Ad Hoc Appointments (on Posts Outside the Purview of Public Service Commission) Rules, 1979. The said rules were amended time to time. Firstly, in the year 1984, secondly, in the year 1989 and thirdly, in the year 2001. Prior to the Third Amendment in the year 2001, there was no scheme available to the petitioner for regularization and if the aforesaid 1979 Rules are considered in its totality, the regularization is to be done after preparing the seniority list and even a person though becomes eligible for regularization in terms of the aforesaid 1979 Rules as amended time to time, but his regularization is subject to availability of the regular vacancies and subject to the seniority. Mere eligibility will not entitle a person to be regularized automatically. Thus, the regularization will be done as and when the vacancies arose and considering the seniority of such ad hoc employees for regularisation.

9. Vide impugned order dated 28.04.2016, when the vacancies arose and the petitioner came in schedule for regularization, in terms of his seniority, he has been regularized in terms of the 1979 rules as amended in the year 2001. Therefore, there is no illegality in the regularization order dated 28.04.2016. It is not the case of the petitioner that any of the juniors of the petitioner, who were in the seniority list prepared on 28.09.2001 has been given regularization prior to the regularization of the petitioner herein.

10. In support of his submissions, he has also relied upon the judgment of the Coordinate Bench of this Court in ***Bali Ram Singh Vs. State of U.P. and Others : [2022 (2) ADJ 5]***.

11. He further submits that the claim of the petitioner that he should be regularized on the date of his eligibility from the date of his initial appointment or from the date of his eligibility for regularization in terms of 2001 Rules is baseless and cannot be accepted. Accordingly, prayed for dismissal of the instant petition.

12. Having heard the submissions so made by learned counsel for the parties, this Court has carefully gone through the record of the case. Facts of the case are undisputed that the petitioner was appointed vide appointment order dated 28.03.1992 temporarily on ad hoc basis and his services were liable to be terminated after giving one month's notice. However, he continued in service on ad hoc / temporary basis till the date of his regularization on 28.04.2016 and his regularization has been done in terms of 1979 Rules as has been amended, from the date of the order of the regularization.

13. It will be relevant to take note of Rule 4, 5, 6, 7 and Rule 8 of 1979 Rules, which are as under:

"4. Regularisation of ad hoc appointments.-[(1) Any person who-

(i) was directly appointed on ad hoc basis on or before June 30, 1998 and is continuing in service as such on the date of commencement of the Uttar Pradesh Regularisation of Ad hoc Appointments (On Posts Outside the Purview of the Public Service Commission) (Third Amendment) Rules, 2001.

(ii) possessed requisite qualifications prescribed for regular appointment as the time of such ad hoc appointment; and

(iii) has completed or, as the case may be, after he has completed three years service shall be considered for regular appointments in permanent or temporary vacancy, as may be

available, on the basis of his record and suitability before any regular appointment is made in such vacancy in accordance with the relevant rules or orders.

(2) In making regular appointments under these rules reservations candidates belonging to the Scheduled Castes, Scheduled Tribes, Backward Classes and other categories shall be made in accordance with the orders of the Government in force at the time of recruitment.

(3) For the purpose of sub-rule (1) the appointing authority shall constitute a Selection Committee.

(4) The appointing authority shall prepare an eligibility list of the candidates, arranged in order of seniority, as determined from the date of order of appointment and if two or more persons are appointed together from the order in which their names are arranged in the said appointment order, the list shall be placed before the Selection Committee along with the character rolls and such other records of the candidates as may be considered necessary to assess their suitability.

(5) The Selection Committee shall consider the cases of the candidates on the basis of their records referred to in sub-rule (4).

(6) The Selection Committee shall prepare a list of the selected candidates, the names in the list being arranged in order of seniority, and forward it to the appointing authority.

5. Appointments. *-The appointing authority shall, subject to the provisions of sub-rule (2) of Rule 4, **make appointment from the list prepared under sub-rule (6) of the said rule in the order in which the names stand in the list.***

6. Appointments be deemed to be under the relevant Service Rules etc.- *Appointment made under these rules shall be deemed to be under the relevant service rules or orders, if any.*

7. Seniority.- *(1) A person appointed under these rules shall be entitled to seniority only from the date or order of appointment after selection in accordance with these rules and shall, in all cases, be placed below the persons appointed in accordance with the relevant service rules or as the case may be, the regular prescribed procedure, prior in the appointment of such person under these rules.*

(2) If two or more persons are appointed together their seniority inter se shall be determined in the order of appointment.

8. Termination of the Service.- *The services of a person, appointed on ad hoc basis who is not found suitable or whose case is not covered by sub-rule (1) of Rule 4 of these rules, shall be terminated forthwith and, on such termination, he shall be entitled to receive one month's pay."*

14. If we consider the scheme of regularization as provided under these rules, Sub-rule (1) of Rule 4 talks about the eligibility of the person for regularization. Sub-rule (2) provides for the reservation in appointment in accordance with the directions of the Government. Further, procedure is provided that the appointing authority shall constitute a Selection Committee in terms of the rules and thereafter, the eligibility list shall be prepared in terms of their seniority, which shall be determined on the basis of the date of the order of appointment and thereafter, the Selection Committee shall consider the cases of candidates on the basis of their records and then the Selection Committee shall prepare a list of selected candidates and thereafter, Rule 5 provides that the appointing authority shall, subject to the provisions of Sub-rule (2) of Rule 4, shall make the appointments from the list so prepared by the Selection Committee in terms of Sub-rule (6) of Rule 4 time to time in the order in which the names stand in the select list.

15. It is not necessary that all the candidates who has been found eligible by the Selection Committee for regularization can be given the regularization in one go. It is for the appointing authority to consider as

and when the vacancies arises to give the appointment from the said select list.

16. Rule 6 provides that such appointment made against the regular post shall be deemed to have been made under the relevant rules and a person appointed under these rules shall be entitled to seniority only from the date of order of appointment. After selection in accordance with these rules, he shall be placed below the persons who were appointed in accordance with the relevant service rules through proper procedure.

17. With regard to the eligibility of the petitioner herein is concerned, the petitioner became eligible for regularization after the Third Amendment to the aforesaid 1979 Rules made in the year 2001, which came into effect on 20.12.2001, which provided that any person appointed on ad hoc basis on or before 30.06.1998 and was having prescribed qualifications at the time of his initial appointment as on ad hoc basis and he has completed three years continuous service against the permanent or temporary vacancy shall be regularized after following the due procedure as provided in Sub-rule (2) to (6) of Rule 4 and Rule 5 of the 1979 Rules.

18. It is undisputed in this case that coming into force of the amendment in the year 2001 in 1979 Rules, the petitioner became eligible for regularization in terms of seniority list wherein he was placed at serial no.74 under the 2001 Rules.

19. In the considered opinion of this Court, rules do not provide that all the candidates who are found eligible by the Selection Committee are to be given appointment at one go. They are to be given appointment against regular permanent vacancy only. Thus, as and when the vacancies so occur, such ad hoc candidates are required to be regularized and their seniority will depend from the date of the order of the appointment. Thus, for all practical purposes regularization is required to be considered from the date of the order of appointment in terms of the aforesaid 1979 Rules. Thus, in view of the categorical scheme provided in the 1979, Rules as amended in the year 2001, the claim of the petitioner that he should be given regularization from any earlier date is not sustainable. The judgments relied upon by the counsel for the petitioner as mentioned

above do not deal with the aforesaid rules and the scheme of the rules. Thus, in the considered opinion of this Court, they are not applicable on the facts of the instant case.

20. By way of supplementary affidavit, the petitioner has brought on record an order dated 11.10.2019 in respect of Sri Ramakant Tiwari, Junior Clerk, who was also identically regularized by the identically worded order dated 28.04.2016 from the date of the order of appointment, however, he has been later regularized w.e.f. 04.04.1999 from the date of his initial joining and on the basis thereof the petitioner has claimed the benefit of regularization to be given to the petitioner also from the date of his initial joining i.e., 28.03.1992.

21. Since, we have already held that under the scheme of 1979, Rules there is no provision for giving the regularization from the date of initial appointment or from the date of eligibility of such candidate for regularization. In the this regard, the following observation of the Apex Court in ***Uday Pratap Thakur and Anr. vs. State of Bihar and Ors. (Civil Appeal No. 31155 of 2023 dated 28.04.2023)*** would be relevant, wherein the Apex Court has held that there is a categorical difference between a regular appointment as well as on the daily wager, work-charge, ad hoc, temporary appointments, which have been made without following proper procedure.

22. The relevant observation of the Apex Court in ***Udai Pratap Thakur (supra)*** are as under:

“.....there is always a difference and distinction between a regular employee appointed on a substantive post and a work charged employee working under work charged establishment. The work charged employees are not appointed on a substantive post. They are not appointed after due process of selection and as per the recruitment rules. Therefore, the services rendered as work charged cannot be counted for the purpose of pension / quantum of pension.....”

23. In such view of the matter and after examining the scheme of regularization, this Court is of the considered view that regularization

order cannot be given effect to prior to the date of order of regularization order.

24. In such view of the matter, claim for negative parity cannot be acceded to by this Court. Accordingly, the instant petition is ***dismissed***.

(Anish Kumar Gupta,J.)

September 2, 2026
Shubham Arya