



A.F.R.

Neutral Citation No. -
2026:AHC-LKO:65882
Reserved on: 06.08.2026.
Delivered on: 17.09.2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 3475 of 2003

Pradeep Kumar

.....Petitioner(s)

Versus

State of U.P. Through Special Secy. Govt. of U.P. Civil Sece

.....Respondent(s)

Counsel for Petitioner(s)	: Dr. L.p. Misra, Raj Kumar Pandey
Counsel for Respondent(s)	: C.S.C., Lalit Shukla

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard Sri L.P. Misra, Advocate alongwith Sri Tarun Mishra, learned counsel for the petitioner, Sri Lalit Shukla, learned counsel for respondent Nos.2 to 6 and learned Standing Counsel for respondent No.1.

2. The present writ petition has been filed for issuance of a writ in the nature of certiorari quashing the impugned order dated 09.05.2003 passed by respondent No.6 contained as Annexure-1 to the writ petition and to quash the advertisement dated 07.06.2003 issued under the signature of respondent No.6 contained as Annexure-2 to the writ petition so far as it relates to the post against which the petitioner has been working as House Matron. A further prayer has been made to direct the respondents to allow the petitioner to work on the post of House Matron and to pay him salary every month and to regularise his services with all consequential benefits.

3. Factual matrix of the case is that the U.P. Sainik School Society, Sarojini Nagar, Lucknow is stated to be a registered society under the Societies Registration Act, 1860 and is fully funded by the State Government of Uttar Pradesh. The Chief Minister of Uttar Pradesh is stated to be the ex-officio Chairman of the Society. On this basis, the petitioner asserts that the Society is an instrumentality of the State within the meaning of Article 12 of the Constitution of India.

4. The petitioner retired from the Indian Navy on 31.01.1998 after rendering approximately 15 years of service as L.S.A. (Leading Store Assistant). Thereafter, an advertisement dated 03.11.1998 was published in the Hindi daily newspaper Rashtriya Sahara, inviting applications for the single vacant post of House Matron in U.P. Sainik School, Sarojini Nagar, Lucknow. The petitioner applied pursuant to the said advertisement and was selected by a duly constituted Selection Committee.

5. Pursuant to his selection, the petitioner was appointed as House Matron by respondent no.6, who is stated to be the appointing authority for the post. The appointment letter was issued on 28.06.1999. Thereafter, a formal appointment letter dated 01.08.1999 recorded the petitioner's appointment as House Matron on a temporary basis, on a consolidated salary of Rs. 3,600/- per month, with effect from 29.06.1999 up to 24.12.2000. Thus, according to the petitioner, his service as House Matron commenced from 29.06.1999.

6. On 01.01.2000, respondent no. 6 issued another appointment letter describing the petitioner as appointed on an ad hoc basis with effect from 03.01.2000 up to 30.04.2000, on a consolidated pay of Rs. 4,000/- per month. The petitioner alleges that this change in the nomenclature of his appointment and the intervening period were intended to create an artificial break in his otherwise continuous service.

7. On 03.05.2000, another appointment letter was issued appointing the petitioner on an ad hoc basis with effect from 03.05.2000 up to 31.08.2000. The petitioner similarly alleges that the said arrangement resulted in an artificial break in his service.

8. Vide letter dated 18.09.2000, the petitioner's services were extended up to 30.11.2000, with an increased remuneration of Rs. 500/- per month, as stated in the petition.

9. Vide letter dated 11.12.2000, the petitioner's services were again extended with effect from 03.12.2000 up to 31.03.2001. The petitioner alleges that this extension created a two-day artificial break in his otherwise continuous service.

10. Vide letter dated 11.03.2001, the petitioner's services were further extended up to 12.05.2001 without any artificial break being created. Vide order dated 01.06.2001, the petitioner's services were extended with effect from 15.05.2001 up to 30.06.2001, again creating, according to the petitioner, a two-day artificial break in his service.

11. Vide letter dated 08.07.2001, the petitioner's engagement was extended with effect from 03.07.2001 up to 29.09.2001. The petitioner states that although the order described the engagement only by reference to extension and did not specifically use the expression "services extended", a two-day break was thereby created. He further states that notwithstanding the stated expiry date of 29.09.2001, he was permitted to continue thereafter.

12. Vide office order dated 28.02.2002, respondent no.6 engaged the petitioner as House Matron from 01.03.2002 up to 11.05.2002. The petitioner points out that the order did not specify the nature of his engagement.

13. Vide order dated 23.06.2002, the petitioner was shown as having been engaged on a contractual basis with effect from 24.06.2002. Subsequently, vide letter dated 28.12.2002, his engagement was stated to be from 24.06.2002 up to 31.12.2002.

14. Vide letter dated 13.01.2003, the petitioner was engaged on contract basis with effect from 13.01.2003 at a monthly salary of Rs.6,000/-. According to the petitioner, he continued to work as House Matron until 10.05.2003.

15. During the entire period commencing from 29.06.1999, the petitioner asserts that he continuously discharged his duties as House Matron to the utmost satisfaction of the authorities. Various communications dated 09.03.2000, 04.06.2001 and 24.04.2003 issued by the then Principal are relied upon to demonstrate appreciation of his work and performance.

16. It is asserted that the post of House Matron against which he was appointed in 1999 was a substantive and sanctioned post and that he continuously discharged the duties attached to that post. In support thereof, reliance is placed upon a letter dated 23.07.2002 addressed by respondent no. 6 to the Special Secretary, Government of Uttar Pradesh, who is stated to be the ex-officio General Secretary of the U.P. Sainik School Society.

17. The petitioner was selected against the vacant post of House Matron by the competent authority after following the procedure prescribed under the U.P. Sainik Schools (Ministerial Establishment) Service Rules, 1970. Rule 4, under Part III relating to recruitment, specifically provides that the post of Matron is to be filled by direct recruitment. The relevant provision relied upon by the petitioner reads as under:

"Part-III RECRUITMENT.**4. The Source of recruitment to posts in the establishment
shall be as follows:-**

...

(vi) Matron — By Direct Recruitment."

18. The petitioner further relies upon Rule 12 governing the procedure for direct recruitment. Rule 12(1) provides as under :

"When it is decided to fill any post in the Establishment, the appointing authority shall call for applications of prospective candidates from the nearest Employment Exchange and/or by advertisement in the press."

19. Rule 12(2) further provides that the applications received are to be scrutinized by the appointing authority and eligible candidates are to be called for a written competitive examination followed by an interview before the Selection Committee referred to in Rule 13.

20. The petitioner also relies upon Rule 13, which provides for the Selection Committee in the following terms:

"On the occurrence of substantive vacancies or such officiating or temporary vacancies as are likely to continue for more than a year, the candidates shall be interviewed by a selection Committee, consisting of —

(a) the Principal

(b) the Headmaster and

(c) the Registrar."

21. The petitioner states that his selection was made through the prescribed process and that he was thereafter appointed by the competent appointing authority. Rule 16 of the 1970 Rules, relied upon by the petitioner, provides as under:

"The appointing authority shall make appointments to the establishment on the occurrence of vacancies by taking

candidates in the order in which their names appear in the list prepared under rule 15(1) in case of direct recruitment and from the list prepared under Rule 15(2) in case of recruitment by promotion provided that they are otherwise suitable for appointment."

22. The petitioner relies particularly upon Rule 18 concerning probation. Rule 18(1) provides as under:

"Every person on appointment to the establishment in or against a substantive vacancy shall be placed on probation for a period of two years."

23. The proviso permits the appointing authority, for sufficient reasons recorded in writing, to extend probation in an individual case, with the extension specifying the exact date up to which it is granted.

24. Rule 18(2), as relied upon by the petitioner, further provides that the appointing authority may allow continuous service rendered in an officiating or temporary capacity in a post included in the cadre of the establishment to be taken into account for computing the period of probation.

25. Rule 18(3) provides that if, during or at the end of the period of probation or extended probation, it appears that a probationer has not made sufficient use of his opportunities or has otherwise failed to give satisfaction, his services may be terminated. Rule 18(4) further provides that a probationer whose services are dispensed with under sub-rule (3) shall not be entitled to compensation.

26. On the basis of the aforesaid provisions, the petitioner contends that, having served continuously as House Matron from 29.06.1999 for approximately four years, he had already completed the two-year period

contemplated by Rule 18 before the impugned termination dated 09.05.2003. The petitioner therefore claims entitlement to confirmation/regularization on the post.

27. The petitioner further relies upon the provisions of the Service Rules concerning reservation and submits that where there is only one vacancy, the vacancy is to be treated as unreserved. According to the petitioner, the advertisement pursuant to which he was selected related to the single vacant post of House Matron. Advertisements dated 04.11.1998 and 01.03.2000 are relied upon in this regard.

28. The petitioner states that there were five sanctioned posts of House Matron in the U.P. Sainik School, Sarojini Nagar, Lucknow, out of which four posts were already filled and only one post was vacant. According to the petitioner, it was against this sole vacant post that he was selected in 1999. He further points out that the subsequent advertisement dated 07.06.2003 did not disclose that there were three vacant posts of House Matron.

29. The petitioner further asserts that his temporary appointment had been made with the prior approval of respondent no.4 by respondent no.6, who was the appointing authority. According to the petitioner, the general power of administration vested in respondent no. 4, including the power relating to creation of a new post in any cadre with prior approval of respondent no.3. The petitioner states that no permission had been granted by respondent no.3 for increasing the number of posts of House Matron and, therefore, questions the subsequent showing of three vacant posts. The Bye-laws of the U.P. Sainik School Society are relied upon in this regard.

30. The petitioner asserts that, in addition to the duties attached to the post of House Matron, he was required to discharge various other duties and functions in the same manner as permanent members of the non-

teaching staff. According to him, despite performing such duties, he was paid less than the amounts mentioned in the successive extension letters. He characterizes this as harassment and exploitation of labour and alleges that it amounted to an unfair labour practice.

31. The petitioner further states that the duties and responsibilities attached to the post of House Matron were specific in nature, having regard to the object of the Sainik School of preparing cadets for service to the nation as Army personnel. In this context, the petitioner relies upon his prior service in the Indian Navy and the certificates issued to him by the Navy to demonstrate his suitability for the post.

32. The petitioner asserts that the U.P. Sainik School Society is an instrumentality of the State and also constitutes an "industry" within the meaning of the U.P. Industrial Disputes Act, 1947, while the petitioner is a "workman". On that basis, he invokes Sections 6-N and 6-Q of the said Act. Section 6-N, as quoted in the petition, provides conditions precedent to retrenchment of a workman who has been in continuous service for not less than one year. It provides, inter alia:

"6-N. Conditions precedent to retrenchment of workmen.
No Workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until —
(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice wages for the period of the notice;
(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months; and
(c) notice in the prescribed manner is served on the State Government."

33. Section 6-Q, also quoted in the petition, provides as under:

"6-Q. Re-employment of Retrenched workmen. Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner prescribed give an opportunity to the retrenched workmen to offer themselves for re-employment, and the retrenched workmen who offer themselves for re-employment shall have preference over other person."

34. On the strength of Sections 6-N and 6-Q, the petitioner contends that termination of his services was illegal and void ab initio and that the respondents could not engage another person from outside without first considering the petitioner's claim for absorption/regularization against the post.

35. The petitioner further asserts that he had been continuously working and performing the duties of House Matron for approximately four years and had completed more than 240 days of service. According to him, both the post and the work continued to be available and his services had consistently been appreciated by the authorities.

36. The petitioner challenges the order dated 09.05.2003 passed by respondent no.6, whereby his services as House Matron were terminated with effect from 10.05.2003. The stated reason for termination was that there was no further need for the petitioner's services.

37. The petitioner contends that the stated reason for termination was contradicted by the subsequent advertisement dated 07.06.2003 issued by respondent no. 6 inviting applications for the very post of House Matron against which the petitioner had continuously worked. According to the petitioner, the advertisement demonstrated that the

work and post continued to exist and, therefore, belied the stated ground that there was no further need for his services.

38. The petitioner consequently challenges not only the termination order dated 09.05.2003 but also the advertisement dated 07.06.2003 published in the Hindi daily Rashtriya Sahara, whereby applications were invited for filling the post of House Matron. The petitioner states that he had been continuously working against that post since 29.06.1999 and that the respondents intended to make a fresh selection against the same post.

39. The petitioner, therefore, asserts that the termination was arbitrary, illegal and contrary to the mandate of the U.P. Industrial Disputes Act, including the provision referred to in the petition as Section 6-N, and consequently liable to be set aside.

40. During the pendency of the writ proceedings, this Court passed an interim order dated 24.07.2003 whereby the impugned order dated 09.05.2003 was stayed and the petitioner was permitted to continue to hold the post of House Matron subject to the directions contained in the interim order.

41. The respondents challenged the interim order dated 24.07.2003 by filing Special Appeal No.363 of 2003. The said special appeal was dismissed by this Hon'ble Court vide judgment and order dated 09.09.2003.

42. Following the dismissal of the special appeal, the petitioner was allowed to continue on the post of House Matron. According to the petitioner, however, his salary was never increased thereafter, although it had earlier been enhanced from time to time.

43. The petitioner states that he continued to discharge all duties and functions attached to the post of House Matron in the same manner as a regular incumbent, worked full working hours on working days and remained fully qualified for the post under the applicable Service Rules. He further states that his services continued to be appreciated as commendable and praiseworthy, including through a commendation certificate relied upon in the petition.

44. The petitioner further asserts that, despite the provisions of the 1970 Rules concerning probation and increments, he continued to receive only the minimum salary of Rs. 6,000/- per month until 2024, notwithstanding satisfactory performance. He states that persons junior to him were paid salary in the regular pay scale along with admissible allowances and increments. He also states that his provident fund account and employee-related conditions were not maintained.

45. The petitioner reiterates that he had originally been duly selected by a Selection Committee and appointed by respondent no. 6 pursuant to an appointment letter. According to him, notwithstanding the regular selection process, his tenure was continuously described as that of a temporary employee.

46. The petitioner further relies upon the original advertisement pursuant to which he had applied, contending that the advertisement contemplated regular selection and appointment. He again relies upon the Service Rules, 1970 and the provision concerning treatment of a sole vacancy as unreserved.

47. The petitioner states that in 1997 Colonel Dwivedi was the Principal and D.S. Chaudhary was the Headmaster. According to him, both were transferred elsewhere in 1998, after which Rajiv Varshney, who was then Registrar, also took charge as Principal and Headmaster. The petitioner states that the advertisement pursuant to which he was

selected was issued by Rajiv Varshney and that the selection was conducted by him while functioning in all three capacities, namely Registrar, Principal and Headmaster.

48. The petitioner states that, pursuant to the interim protection granted by this Hon'ble Court and his subsequent continuation, he ultimately served as House Matron from 29.06.1999 until 08.10.2024. During this period, according to him, there was no stigma attached to his service and his work and performance were consistently appreciated by the authorities.

49. During the pendency of the writ petition, respondent no. 6 issued a communication stating that the petitioner's service would come to an end upon his attaining the age of superannuation with effect from 08.10.2024.

50. The petitioner consequently claims entitlement to post-retiral benefits and arrears of salary, including arrears under the Sixth Pay Commission. He alleges that denial of such benefits is illegal and arbitrary, particularly in view of his long service from 29.06.1999 to 08.10.2024, the absence of any stigma, his continued discharge of the duties of House Matron and the appreciation of his services.

51. The petitioner asserts that the denial of such service and retiral benefits violates his fundamental rights guaranteed under Articles 14 and 16 of the Constitution of India, as well as the right to property under Article 300-A of the Constitution of India.

52. The petitioner, being aggrieved by the termination order dated 09.05.2003, the subsequent advertisement dated 07.06.2003, the alleged denial of regular status, the continued payment of only Rs. 6,000/- per month despite prolonged service, and the alleged denial of pay-scale benefits, increments, provident fund and post-retiral benefits, has

approached this Hon'ble Court by way of the present writ petition. The petitioner relies upon his initial selection through the prescribed process, his continuous service from 29.06.1999, the existence of the sanctioned post, the provisions of the U.P. Sainik Schools (Ministerial Establishment) Service Rules, 1970, the protections claimed under Sections 6-N and 6-Q of the U.P. Industrial Disputes Act, 1947, and the constitutional guarantees contained in Articles 14, 16 and 300-A of the Constitution of India.

53. Submission of learned counsel for the petitioner is that so far as the challenge to the advertisement contained in prayer clause (b) is concerned, the said prayer has lost its efficacy, inasmuch as the petitioner, while continuously working and discharging the functions and duties of House Matron, ultimately retired from service on 08.10.2024. The surviving controversy, therefore, principally concerns the nature and legality of the petitioner's initial appointment, the legality of the condition whereby he was paid consolidated salary, his entitlement to regular pay-scale and consequential service benefits, and the consequential fixation of pension.

54. He submitted that the advertisement dated 03.11.1998 was issued inviting applications for one post of House Matron. The advertisement, which forms part of the record as Annexure-3 at page 34 of the writ petition, specifically showed the post of House Matron against the prescribed regular scale of pay and did not stipulate that the appointment would be contractual, ad hoc, for a fixed period, or on consolidated remuneration. Under Rule 12(1) of the U.P. Sainik Schools (Ministerial Establishment) Service Rules, 1970 (hereinafter referred to as the "Rules, 1970"), candidates were to be called from the nearest Employment Exchange and/or through advertisement in the press. The petitioner, whose name was duly enrolled with the Employment Exchange as an unemployed person, was accordingly sponsored. Since no eligible candidate belonging to the Scheduled Caste category was

available, the petitioner's candidature was forwarded to the appointing authority. The petitioner was an Ex-Indian Navy personnel having the requisite eligibility.

55. He further submitted that the petitioner was thereafter called for selection and appeared before the Selection Committee. He was selected and was found suitable for appointment to the post of House Matron. However, notwithstanding the terms of the advertisement, the appointment letter subsequently imposed a condition that the petitioner would receive a consolidated salary of Rs. 3,600/- per month. Such condition was conspicuously absent from the advertisement, which had advertised the post against the prescribed scale of pay.

56. He next submitted that after selection and appointment, the petitioner continuously discharged the duties of House Matron. His services were extended from time to time, as evidenced by Annexures-5 to 16 at pages 37 to 48 of the writ petition. The petitioner continuously performed his duties with utmost sincerity, diligence and devotion and, according to the record relied upon by him, his work and conduct were appreciated by the competent authorities from time to time.

57. He submitted that the petitioner was subsequently purportedly terminated vide order dated 09.05.2003. It is the consistent case of the petitioner that such termination was merely an attempt to create an artificial break in his service, notwithstanding the fact that he had been selected pursuant to the advertisement, appointed against the post of House Matron and had continuously discharged the functions and duties attached to the said post.

58. He submitted that being aggrieved by the termination order dated 09.05.2003, the petitioner approached this Hon'ble Court by filing the present writ petition, wherein this Hon'ble Court, after considering the material available on record, passed an interim order dated 24.07.2003,

whereby the operation of the termination order was stayed and the petitioner was permitted to continue as House Matron. Significantly, this Hon'ble Court, while passing the interim order, recorded the following findings:

*"It is noteworthy that the rules, the safer features of which have been reproduced in para 19 of the Writ Petition, there is no provision for appointment of an official on contract basis. Even, the first appointment letter (Annexure 4), which was issued to the petitioner, does not indicate that the service of the petitioner was engaged on contractual basis. A careful perusal of the first appointment letter dated 28.6.1998 and the advertisement (Annexure 3) in pursuance of which the petitioner applied for the post of Matron clearly indicate that the applications for the post of House Matron were invited for regular selection. He was selected on the basis of the interview held by a committee constituted for the purpose and as is evident from the recitals of appointment letter (Annexure 4), he was found suitable to hold the post. However, his appointment was kept confined upto the time of the closing of the institution for winter vacation and the basis of this was referred by his consent. In this context, it is noteworthy that in the present times the problem of unemployment is acute on account of lack of opportunities for job and livelihood. It appears that under duress, the petitioner was made agreeable to his appointment upto the time of closing of the school for winter vacation. No such condition was mentioned in the advertisement inviting applications for the post of Matron (Annexure 3). The policy of educational institutions providing employment for the academic sessions excluding vacations has been deprecated time and again by this Court as well as by the Supreme Court. In **Ratan Lal and others v. State of Haryana and others, (1985) 4 SCC 43**, the Hon'ble Supreme Court held that the government's practice of appointing large number of teachers on ad hoc basis at the commencement of academic year, terminating their services before next summer vacation or earlier and reappointing them on ad hoc basis at the commencement of the next academic session with breaks in services effected so as to deny them the salary for the summer vacation as also all other benefits to which regular teachers are generally entitled is unreasonable and arbitrary. Such policy of ad hocism keeping the teachers under hire and fire policy results in breach of Articles 14 and 16 of the Constitution of India."*

..... As said above, in the case in hand, neither the rules permit engagement of Matron on contractual basis nor the initial appointment of the petitioner was made on the basis of any contract. The advertisement issued for the purpose of recruitment also did not contain any clause providing for contractual service. In view of these facts and circumstances, the Principal of the Sainik School was not competent to alter the conditions of the petitioner's service."

a) The learned Single Judge further recorded a categorical finding that:

"As a matter of fact, the petitioner appeared before a regular Selection Board and his selection was regular and legal in all respects as clearly depicted in his initial appointment letter. "

b) The Court also held that the petitioner had not been consulted before the conditions of his service were altered to his disadvantage and that the termination was also liable to be tested in the light of Section 6-N of the U.P. Industrial Disputes Act, 1947 and consequently, this Court directed that:

"Keeping in view the above discussions, the operation of the impugned termination order dated 9th May, 2003 (Annexure 1) is hereby stayed and it is provided that the petitioner shall continue to hold the post of House Matron until further orders of this Court. The opposite – parties are hereby commanded not to make any selection for the post of House Matron occupied by him or cause any obstacle in discharge of his duty as he was discharging prior to passing of the impugned order. While continuing as House Matron, the petitioner would be entitled to draw consolidated wages as he was drawing earlier. However, these orders would not be subject to the final decision of this Court."

59. He submitted that the employer challenged the aforesaid interim order by filing Special Appeal No.363 of 2003, U.P. Sainik School Society and others v. Pradeep Kumar, wherein the Division Bench dismissed the special appeal vide order dated 03.09.2003 by observing that:

*"We do not find any reason for interference in the special appeal, particularly when the writ petition is pending for final hearing. The interim order passed by the learned Single Judge would, of course, be subject to final orders which would be passed in the writ petition.
The special appeal is dismissed."*

a) Thus, the interim order permitting the petitioner to continue on the post of House Matron and restraining the employer from making a fresh selection against the post remained operative, subject to the final adjudication of the writ petition. The petitioner thereafter continued to discharge the duties of House Matron and ultimately retired from service on 08.10.2024.

60. He further submitted that the petitioner's appointment is governed by the **U.P. Sainik Schools (Ministerial Establishment) Service Rules, 1970**. The relevant provisions are material because the entire controversy has to be adjudicated on the touchstone of the statutory scheme applicable to the post of House Matron.

Rule 4 — Source of Recruitment

17. Rule 4 of Part III provides:

"Rule 4. The Source of recruitment to posts in the establishment shall be as follows:-

- (i) Lower Division Clerk
- (ii) Lab. Assistant
- (iii) Store Keeper
- (iv) Treasurer
- (v) Stenographer
- (vi) Matron
- (vii) Compounder
- (viii) Librarian
- (ix) Head Clerk
- (x) Quarter Master
- (xi) Upper Division Clerk
- (xii) Accountant

By Direct Recruitment"

Thus, the post of Matron/House Matron was a post to be filled by direct recruitment.

Rule 5 — Reservation

18. Rule 5 provides:

"Reservation of posts for scheduled castes and scheduled tribes shall be in accordance with the government orders in force in this behalf from time to time."

Appendix II specifically provides:

"Provided that if a sufficient number of suitable candidates eligible for reserved vacancies is not available from amongst the Scheduled Caste candidates on any occasion of recruitment, such vacancies may be treated and filled up as unreserved vacancies, but shall be carried forward for subsequent occasion of recruitment. However, on no such subsequent occasion shall the number of normal reserved vacancies and the carried forward reserved vacancies together exceed 45 per cent of the total number of vacancies.

Nevertheless, if there be only two vacancies, one of them may be treated as reserved vacancy, but if there be only one vacancy, it shall be treated as unreserved."

61. In the present case, there is no dispute that no eligible Scheduled Caste candidate was available. The petitioner's name was therefore validly forwarded by the Employment Exchange. In terms of the statutory prescription contained in Appendix II, the vacancy was liable to be treated as an **unreserved vacancy**.

Rule 12 — Procedure for Direct Recruitment

20. Rule 12 provides:

*"**Rule 12. (1)** When it is decided to fill any post in the Establishment, the appointing authority shall call for applications of prospective candidates from the nearest Employment Exchange and/or by advertisement in the press.*

(2) The applications so received shall be scrutinized by the appointing authority, who will call such persons as are eligible under these rules to appear at a written competitive examination followed by an interview to be conducted by him at a date and time fixed for the purpose. The interview will be taken by the Selection Committee referred to in rule 13 below."

Rule 13 — Selection Committee

21. Rule 13 provides:

*"**Rule 13.** On the occurrence of substantive vacancies or such officiating or temporary vacancies as are likely to continue for more than a year, the candidates shall be interviewed by a Selection Committee, consisting of—*

(a) the Principal

(b) the Headmaster and

(c) the Registrar."

Rule 16 — Appointment

22. Rule 16 provides:

"The appointing authority shall make appointments to the establishment on occurrence of vacancies by taking candidates in the order in which their names appear in the list prepared under rule 15(1) in case of direct recruitment and from the list prepared under Rule 15(2) in case of recruitment by promotion provided that they are otherwise suitable for appointment."

Rule 18 — Probation

23. Rule 18 provides:

*"**Rule 18. (1)** Every person on appointment to the establishment in or against a substantive vacancy shall be placed on probation for a period of two years:*

***PROVIDED** that the appointing authority may for sufficient reasons to be recorded in writing, extend the period of probation in an individual case, any such extension shall specify the exact date up to which the extension is granted."*

Rule 19 — Confirmation

24. Rule 19 provides:

*"**Rule 19. (1)** A probationer shall be confirmed in his appointment at the end of his period of probation, or the extended period of probation, as the case may be, if his work and conduct have been found to be satisfactory, his integrity is certified and that the appointing authority is satisfied that he is otherwise fit for confirmation."*

Rule 20 — Scale of Pay

25. Rule 20 is of particular significance and provides:

"Rule 20. The scale of pay admissible to persons appointed to the establishment, whether in a substantive or an officiating capacity or as a temporary measure, shall be as indicated in Appendix I."

Rule 25 — Residuary Matters

26. Rule 25 provides:

"Rule 25. In regard to matters relating to pay, leave, allowances etc. not specifically covered by these rules or orders made or issued thereunder, or by special orders, persons appointed in the establishment shall be governed by the rules, regulations and orders applicable generally to Government servants serving in connection with the affairs of Uttar Pradesh."

62. He submitted that the first two issues are interconnected and are therefore being dealt with together:

- a) Whether the appointment of the petitioner was made against a substantive post within the cadre?
- b) Whether the appointment of the petitioner was made according to the Recruitment Rules applicable?

63. Rule 3 of Part II read with Appendix I prescribes the cadre strength. Rule 3 provides:

"Rule 3. (1) The strength of the Establishment and of each kind of posts therein shall be such as may be determined by the Board from time to time.

(2) The present strength of the establishment and of each kind of posts therein shall, until orders varying the same under sub-rules (1), be as specified in Appendix I."

*Appendix I specifically provides for **five posts of House Matron** with the prescribed scale of pay and qualifications.*

64. It is submitted that the post of House Matron was a sanctioned cadre post. The advertisement dated 03.11.1998 was issued against a vacant post carrying the prescribed regular scale of pay and contained no stipulation that the appointment would be temporary, ad hoc, contractual, or for a fixed tenure.

65. He submitted that the statutory scheme under the U.P. Sainik Schools (Ministerial Establishment) Service Rules, 1970 reinforces the petitioner's case. Rule 4 provides for direct recruitment to the post of Matron, Rule 12 prescribes the recruitment procedure, Rule 16 contemplates appointment against vacancies from the select list, and Rules 18 and 19 provide for probation and confirmation. Rule 20 further mandates the prescribed scale of pay for persons appointed to the establishment. The Rules, therefore, do not contemplate an independent regime of contractual appointment to the post of House Matron or substitution of the prescribed scale by a consolidated salary.

66. The submission is that the respondents' objection regarding the constitution of the Selection Committee or absence of a written examination cannot be attributed to the petitioner. The petitioner merely responded to the advertisement, participated in the selection process conducted by the employer and was selected. At the relevant time, the posts of Headmaster and Registrar were vacant and the then Principal was discharging the functions of those offices as well. The petitioner cannot be penalised for any administrative or procedural lapse attributable solely to the appointing authority.

67. He next submitted that the material circumstances establish that the petitioner was selected against a sanctioned vacancy, his name had been duly forwarded by the Employment Exchange, the applicable Rules permitted the vacancy to be treated as unreserved in the absence of an eligible Scheduled Caste candidate, and the appointment letter neither described the appointment as contractual nor prescribed any fixed tenure. The petitioner continuously discharged the duties of House Matron and ultimately retired from the same post on 08.10.2024. The respondents' subsequent assertion that the petitioner was appointed only until the joining of a regularly selected person cannot improve upon or substitute the express terms of the appointment order. Having selected the petitioner and permitted him to continue for approximately twenty-

six years, the respondents cannot retrospectively characterise his appointment as purely contractual or illegal.

68. He submitted that the respondents' contention regarding the absence of a written competitive examination is equally untenable. The petitioner had no role in prescribing the mode of recruitment or constituting the Selection Committee. Any deviation from the prescribed procedure was exclusively attributable to the employer. The principle that an employee cannot be made to suffer for a fault not attributable to him is well recognised in law, including in the case of **Vijay Singh v. State of U.P., (2012) 5 SCC 242**, and **Kumari Laxmi Saroj v. State of U.P., Civil Appeal No. 9040 of 2022, decided on 15.12.2022.**

69. he submitted that the respondents are further estopped, in principle and equity, from taking advantage of their own alleged mistake after approximately twenty-six years. They selected the petitioner, issued the appointment order, permitted him to discharge the duties of House Matron for decades and accepted the benefit of his services without any allegation of fraud, suppression, manipulation or misrepresentation. The principle laid down in the case of **M.D. Zamil Ahmed v. State of Bihar, (2016) 12 SCC 342**, squarely applies, namely, that the State cannot, after condoning its own lapse for a considerable period, seek to terminate or otherwise prejudice an employee on that ground when the employee himself was not responsible for the alleged irregularity.

70. Next submission of learned counsel for the petitioner is that the condition requiring payment of consolidated salary of Rs. 3,600/- per month was illegal and arbitrary. The advertisement dated 03.11.1998 specified the prescribed regular scale of pay and contained no condition regarding consolidated remuneration. The respondents could not, after completion of the selection process, introduce a materially adverse condition which had never been disclosed to the candidates.

71. He submitted that Rule 20 expressly provides that the scale of pay admissible to persons appointed to the establishment, whether substantively, in an officiating capacity or as a temporary measure, shall be as indicated in Appendix I. Thus, neither the advertisement nor the statutory Rules authorised unilateral substitution of the prescribed pay-scale by consolidated remuneration.

72. He submitted that the principle is also supported by the judgment of the Supreme Court in the case of **Lokendra Kumar Tiwari v. Union of India, Civil Appeal No. 5307 of 2024, decided on 13.05.2026**, wherein the Court examined the legality of granting contractual appointment against an advertisement for a regular vacancy and held, in the facts of that case, that denial of regular appointment was impermissible. The principle applicable here is that an authority cannot invite candidates against a regular vacancy and, without statutory authority or an express stipulation in the advertisement, subsequently impose a materially inferior contractual mode of appointment.

73. He submitted that the respondents cannot contend that the petitioner, merely by accepting the appointment, waived his right to challenge the illegal condition of consolidated salary. An unemployed candidate has no meaningful bargaining power against a public employer and cannot ordinarily negotiate the terms of public employment. Acceptance of such terms does not validate a condition contrary to the statutory Rules or the recruitment advertisement. In the case of **Somesh Thapliyal v. Vice Chancellor, H.N.B. Garhwal University, (2021) 10 SCC 116**, the Hon'ble Supreme Court recognised the unequal bargaining position between an employer and an employee in public employment and held that an employee is not estopped from challenging conditions of service which are inconsistent with the governing law. The same principle is reinforced by the Hon'ble Supreme Court's decision in the case of **Bhola Nath v. State of Jharkhand, 2026 SCC OnLine SC 129**,

emphasising that the State, as a model employer, must act fairly and cannot exploit an employee's unequal bargaining position.

75. He further submitted that the artificial breaks introduced in the petitioner's service cannot be permitted to defeat his legitimate service rights. The petitioner was repeatedly continued in service and performed the duties of House Matron throughout. This Hon'ble Court, at the interim stage, had already considered the issue of artificial breaks and, relying upon the case of **Ratan Lal v. State of Haryana, (1985) 4 SCC 43**, found such a device to be unreasonable and arbitrary.

76. The submission is that in any event, the petitioner ultimately continued on the post pursuant to the interim protection granted by this Hon'ble Court and remained in service until his superannuation on 08.10.2024. The respondents cannot now rely upon breaks created by their own administrative action to defeat the continuity and consequential benefits arising from the petitioner's long service.

77. He next submitted that the petitioner's approximately twenty-six years of service is a material and significant circumstance. He was selected pursuant to the recruitment process, issued an appointment order, continuously discharged the duties of House Matron and ultimately retired from the same post. The respondents accepted the benefit of his services for decades without any adverse finding. The present claim is therefore not one for regularisation of a person who had no right to the post; rather, it concerns the legality of the adverse condition imposed upon an appointment made against a sanctioned vacancy.

78. The submission is that once the petitioner's appointment is held to have been against the sanctioned vacancy and the condition of consolidated salary is found contrary to the advertisement and Rules, he is entitled to fixation of pay in the prescribed scale from 28.06.1999,

subject to lawful fixation under the applicable Rules and Government orders. He is consequently entitled to admissible increments, allowances and consequential time-bound/promotional pay-scale benefits, together with the resulting arrears.

79. He submitted that since the petitioner retired on 08.10.2024 and the service is pensionable, revision of his pay necessarily entails corresponding revision of his last pay and pension. The respondents are therefore liable to refix his pension on the basis of the correctly determined last pay and release the consequential pensionary arrears.

80. He lastly submitted that the respondents may accordingly be directed to treat the petitioner's initial appointment dated 28.06.1999 as an appointment against the sanctioned vacancy under the Rules, with the first two years treated as probation in accordance with Rule 18 and subsequent service dealt with in accordance with Rule 19. The respondents may further be directed to fix and refix the petitioner's pay from 28.06.1999 in the regular scale applicable to the post of House Matron, together with admissible increments, allowances and consequential pay-scale benefits, and to pay the resulting arrears. Consequentially, his last pay and pension may be revised and all arrears of pension released. In support of his submissions, he placed reliance upon following judgments:

- a) Lokendra Kumar Tiwari Vs. Union of India and others; Civil Appeal No.9040 of 2022 decided on 13.05.2026.**
- b) Md. Zamil Ahmed Vs. State of Bihar and others; (2016) 12 SCC 342.**
- c) Bhola Nath Vs. State of Jharkhand and others; 2026 SCC Online SC 129.**
- d) Somesh Thapliyal and another Vs. Vice Chancellor, H.N.B. Garhwal University and another; (2021) 10 SCC 116.**

- e) **Randhir Singh Vs. Union of India and others; (1982) 1 SCC 618.**
- f) **Shah Samir Bharatbhai and Ors. Vs. State of Gujrat and others; 2025 SCC Online SC 1788.**
- g) **Kumari Laxmi Saroj and others Vs. State of U.P. and others; Civil Appeal No.9040 of 2002 decided on 15.12.2022.**
- h) **Vijay Singh Vs. State of U.P.; (2012) 5 SCC 242.**
- i) **Bedanga Talukdar Vs. Saifudullah Khan and others; (2011) 12 SCC 85.**
- j) **K. Manjusree Vs. State of Andhra Pradesh and others; (2008) 3 SCC 512.**
- k) **State of Uttar Pradesh and another Vs. Mohd. Arshad Khan and another; (2026) 6 SCC 383.**
- l) **Vineeta Srinandan Vs. High Court of Judicature at Bombay on its own motion; 2025 SCC Online SC 2757.**

81. On the other hand, learned counsel for the respondent Nos.2 to 6 submitted that the petitioner was never appointed on a regular basis and, therefore, is not entitled to the reliefs sought for. The petitioner was engaged purely on a contractual basis and was working in such capacity. Upon attaining the age of superannuation, the petitioner was disengaged from service in accordance with the terms and conditions governing his contractual engagement.

82. He next submitted that the petitioner had worked pursuant to and in compliance with the interim order dated 14.02.2020 passed by this Hon'ble Court. On the relevant date, the writ petition was dismissed for want of prosecution and the interim order dated 24.07.2003 was accordingly vacated. Thereafter, the petitioner continued to work on a contractual basis in the interest of the students and on a consolidated remuneration. It is, therefore, incorrect to suggest that the petitioner acquired any right of regular appointment or any other benefit available to a regular employee.

83. He submitted that a Special Appeal was preferred against the interim order passed in favour of the petitioner, which was dismissed with the observation that the appeal against the interim order would be subject to the final order to be passed in the writ petition. The order passed in the Special Appeal did not confer upon the petitioner any right of regular appointment or any right to claim the benefits available to a regular employee.

84. He further submitted that the petitioner was permitted to continue in service only in compliance with the interim order passed by the Hon'ble Single Judge of this Hon'ble Court. The said order did not provide that the petitioner would be entitled to the benefits available to a regular employee. Accordingly, the petitioner was permitted to continue in service only in the same capacity in which he had earlier been working, namely, on a contractual basis.

85. He submitted that the petitioner was never appointed on probation. He was engaged for specified periods on a consolidated salary in the interest of the School, which fact is evident from the orders annexed with the writ petition. The petitioner was never granted any regular appointment. He submitted that by means of the judgment and order dated 03.05.2013 passed by this Hon'ble Court in Writ Petition No. 2275 (S/S) of 2013, the non-extension of the contractual appointment of the petitioner was upheld by the Hon'ble Single Judge of this Hon'ble Court.

86. He submitted that by means of the judgment and order dated 10.07.2013 passed in Special Appeal No. 268 of 2013, the Division Bench of this Hon'ble Court dismissed the appeal, inter alia, on the ground that the petitioner was appointed only for a fixed term and that the said term had already expired. It was accordingly held that the petitioner had no valid claim to continue on the post in question, particularly when his appointment was purely contractual in nature.

87. He submitted that in identical circumstances, by means of the judgment and order dated 27.11.2013 passed by the Hon'ble Single Judge of this Hon'ble Court in Writ Petition No. 3198 of 2003 (S/S), Dr. Sursari Tarang Mishra v. U.P. Sainik School Society and others, the controversy relating to contractual/temporary engagement was considered by this Hon'ble Court.

88. Against the judgment and order dated 27.11.2013, the petitioner preferred Review Petition No. 744 of 2013 seeking, inter alia, other consequential benefits. The said review petition was rejected by this Hon'ble Court by means of the judgment and order dated 13.01.2014. The aforesaid judgment and order dated 13.01.2014 passed in Review Petition No. 744 of 2013 has also been reported in **2014 (32) LCD 775**.

89. Against the judgment and order dated 27.11.2013 passed by the Hon'ble Single Judge, a Special Appeal No. 74 of 2014, U.P. Sainik School Society and others v. Dr. Sursari Tarang Mishra, was preferred. The said Special Appeal was disposed of by means of the judgment and order dated 17.02.2014 passed by this Hon'ble Court. The said Special Appeal was disposed of by relying upon the judgment reported in **(2012) 9 SCC 310**, which was rendered on facts substantially similar to those involved in the present matter.

90. Another Writ Petition No. 3602 (S/S) of 1988, filed by a temporary employee of the U.P. Sainik School, was dismissed by this Hon'ble Court by means of the judgment and order dated 12.07.2017, inter alia, on the ground that the temporary appointment was terminable without assigning any reason. Against the judgment and order dated 12.07.2017 passed by this Hon'ble Court in Writ Petition No. 3602 (S/S) of 1988, Special Appeal No. 332 of 2017, Dharam Veer Singh v. U.P. Sainik School Society and others, was preferred. The said Special

Appeal was also dismissed by means of the judgment and order dated 18.02.2017.

91. In view of the facts and circumstances stated hereinabove, as well as the judgments and orders passed by this Hon'ble Court in the matters referred to hereinabove, submission of learned counsel for respondent Nos.2 to 6 is that the petitioner, having never been appointed on a regular basis and having admittedly been engaged on a contractual basis for specified periods, cannot claim any right or benefit available to a regular employee. In support of his submissions, he placed reliance upon following judgments:

- a) Rajasthan State Roadways Transport Corporation Vs. Paramjeet Singh; (2019) 6 SCC 250.**
- b) Chief Executive Officer, Zila Parishad, Thane and others Vs. Santosh Tukaram Tiware and others; (2023) 1 SCC 456.**

92. Learned Standing Counsel for respondent – State also followed the submissions advanced by learned counsel for respondent Nos.2 to 6.

93. I have considered the submissions advanced by learned counsel for the parties and perused the material on record as well as judgments relied upon by learned counsel for the parties.

94. To resolve the controversy involved in the matter, relevant portion of the judgments relied upon by learned counsel for the parties are being quoted below:

Judgments relied upon by learned Counsel for the petitioner:

- a) Lokendra Kumar Tiwari Vs. Union of India and others (Supra):**

“12. We have perused the record and noted the arguments. The real controversy in the Civil Appeal is not whether a contractual appointee is entitled to regularisation, but whether issuing a contractual appointment against an advertisement meant for a regular vacancy, subjecting it to the regular process and arbitrarily granting a contractual appointment, is

sustainable. The following are the admitted circumstances:

A. Advertisement: Respondent No. 2 issued the Advertisement calling for applications for appointment to the posts of Professor, Associate Professor and Assistant Professor in the Institute. The posts were advertised in Pay Band-IV and Pay Band-III, respectively. The Advertisement made no mention of any appointment being made on a contractual basis, and the last date for receipt of applications was 25.02.2013.

B. Appellant's Application and Suitability: The Appellant applied in response to the advertisement for the post of Assistant Professor in the area of Information Security. He was found suitable for consideration, possessing a PhD with a First-Class preceding degree and a good academic record, and was accordingly called for an interview for the post of Assistant Professor by letter dated 18.03.2013.

C. Shortlisted for Consideration for a Regular Appointment: The Appellant was shortlisted and appeared for the interview held on 18.03.2013 before the Selection Committee constituted for the purpose. The selection process was one and the same for all candidates, regular and otherwise, and the Appellant was considered alongside all other candidates who were ultimately appointed on a regular basis.

D. Recommended for Appointment on a Contract Basis: Despite being found suitable and selected through the same process, the Selection Committee, vide its recommendation dated 06.04.2013, recommended the Appellant for appointment on a contract basis for a period of one year at a fixed pay of Rs. 40,000/- per month, while all other thirteen candidates, barring the Appellant and Dr. Ranjana Vyas, were recommended for and given regular appointments. No reason was recorded for this differential treatment.

13. We observe that the procedure initiated is for a regular appointment, and the Selection Committee, after perusing the candidates' applications and credentials, has not given equal or uniform treatment to all candidates invited for an interview. The Appellant, if unsuitable for appointment, could not have been recommended even on a contract basis for a period of twelve months. To justify a singular treatment, at least the record must disclose reasons. The record does not disclose any reason for denying the post for which the Appellant was shortlisted and interviewed. We are aware that in Judicial Review, the court will not sit as a court of appeal on the views recorded by the Selection Committee. The point in the case at hand is not whether the reasons recorded are right or untenable, but whether, even by the most liberal approach to the primacy of

appointment, educational institutions have, in these matters, the denial of regular appointment justified?

14. At this stage, we do not intend to examine the procedure followed by the Selection Committee for making the recommendation dated 06.04.2013 in respect of other appointees. Because there is no challenge to their appointments and they are not parties before us. The other argument regarding the illegality of the Selection Process is also not considered, as it is not under challenge in the present proceedings. However, we note that denying a regular appointment is patently illegal and unconstitutional. Respondent No. 2 places before us the present vacant positions of Assistant Professors in the Institution, with thirty-two vacancies. The total number of vacancies for Assistant Professors is sixty-seven. Having perused the record, we are unable to discern a just and real reason for denying the Appellant a regular appointment. In the facts and circumstances of the case, we hold that the Appellant is entitled to a Regular Appointment in Respondent No. 2/Institution as Assistant Professor. Further, we mould the relief by denying other benefits except the Appellant's entitlement to continuity of service without financial benefit. Respondent No. 2 is directed to issue an order of appointment within four weeks from today, and the Appellant shall be kept, in the seniority of Assistant Professors, as the last candidate against the candidates recommended and appointed by the Selection Committee resolution dated 06.04.2013."

b) Md. Zamil Ahmed Vs. State of Bihar and others (Supra):

"15. In these circumstances, we are of the view that there was no justification on the part of the State to wake up after the lapse of 15 years and terminate the services of the appellant on such ground. In any case, we are of the view that whether it was a conscious decision of the State to give appointment to the appellant as we have held above or a case of mistake on the part of the State in giving appointment to the appellant which now as per the State was contrary to the policy as held by the learned Single Judge, the State by their own conduct having condoned their lapse due to passage of time of 15 years, it was too late on the part of the State to have raised such ground for cancelling the appellant's appointment and terminating his services. It was more so because the appellant was not responsible for making any false declaration nor he suppressed any material fact for securing the appointment. The State was, therefore, not entitled to take advantage of their own mistake if they felt it to be so. The position would have been different if the appellant had committed some kind of fraud or manipulation or suppression of material fact for securing the appointment. As mentioned above such was not the case of the State."

c) Bhola Nath Vs. State of Jharkhand and others (Supra):

“11. At the outset, we find it necessary to express our disapproval of the manner in which the High Court has approached the present lis. The controversy before the Court was not one of mere acquiescence or implied waiver of rights. The High Court, in our view, has proceeded on a mechanical application of precedents without engaging with the core constitutional issues involved, thereby reducing the dispute to one of acceptance of contractual terms, divorced from its larger constitutional context.

11.1. This Court has consistently held that the State, being a model employer, is saddled with a heightened obligation in the discharge of its functions. A model employer is expected to act with high probity, fairness and candour, and bears a social responsibility to treat its employees in a manner that preserves their dignity. The State cannot be permitted to exploit its employees or to take advantage of their vulnerability, helplessness or unequal bargaining position.

11.2. It therefore follows that the State is required to exercise heightened caution in its role as an employer, the constitutional mandate casting upon it a strict obligation to act as a model employer, an obligation from which no exception can be countenanced.

Fundamental Rights and their waiver:

11.3. In the present case, the appellants were appointed by the respondent-State against sanctioned posts of Junior Engineers (Agriculture), with the engagement being described from the inception as contractual in nature. The terms and conditions governing the engagement stipulated that the appointment would be for an initial period of one year, extendable thereafter subject to satisfactory performance.

11.4. The respondent-State accordingly granted extensions to the appellants from time to time until the year 2023, when it was expressly clarified that the extension being granted would be the last. It was thereafter that the appellants approached the High Court by filing writ petitions seeking a writ of mandamus directing the State to regularize their services.

12. In Central Inland Water Transport Corpn. v. Brojo Nath Ganguly⁶, this Court acknowledged the increasing imbalance in the bargaining power of contracting parties. The Court held thus: -

“89. . . . We have a Constitution for our country. Our judges are bound by their oath to “uphold the Constitution and the laws”. The Constitution was enacted to secure to all the citizens of this country social and economic justice. Article 14 of the Constitution

guarantees to all persons equality before the law and the equal protection of the laws. The principle deducible from the above discussions on this part of the case is in consonance with right and reason, intended to secure social and economic justice and conforms to the mandate of the great equality clause in Article 14. This principle is that the courts will not enforce and will, when called upon to do so, strike down an unfair and unreasonable contract, or an unfair and unreasonable clause in a contract, entered into between parties who are not equal in bargaining power. It is difficult to give an exhaustive list of all bargains of this type. No court can visualize the different situations which can arise in the affairs of men. One can only attempt to give some illustrations. For instance, the above principle will apply where the inequality of bargaining power is the result of the great disparity in the economic strength of the contracting parties. It will apply where the inequality is the result of circumstances, whether of the creation of the parties or not. It will apply to situations in which the weaker party is in a position in which he can obtain goods or services or means of livelihood only upon the terms imposed by the stronger party or go without them. It will also apply where a man has no choice, or rather no meaningful choice, but to give his assent to a contract or to sign on the dotted line in a prescribed or standard form or to accept a set of rules as part of the contract, however unfair, unreasonable and unconscionable a clause in that contract or form or rules may be. This principle, however, will not apply where the bargaining power of the contracting parties is equal or almost equal. This principle may not apply where both parties are businessmen and the contract is a commercial transaction. In today's complex world of giant corporations with their vast infrastructural organizations and with the State through its instrumentalities and agencies entering into almost every branch of industry and commerce, there can be myriad situations which result in unfair and unreasonable bargains between parties possessing wholly disproportionate and unequal bargaining power. These cases can neither be enumerated nor fully illustrated. The court must judge each case on its own facts and circumstances."

(emphasis laid)

Therefore, the Court has held that the Constitution obliges courts to advance social and economic justice and to give effect to the equality mandate under Article 14. Consequently, courts will neither enforce nor hesitate to invalidate contracts, or contractual clauses, that are unfair or unreasonable when entered into between parties with unequal bargaining power.

12.1. Relying on the aforesaid reasoning, another two-Judge Bench in Pani Ram v. Union of India⁷, reiterated that the guarantee of equality under Article 14 extends

even to situations where a person has no meaningful choice but to accept imposed contractual terms, however unfair or unreasonable they may be. Applying this principle to the facts before it, the Court observed thus: -

“23. As held by this Court, a right to equality guaranteed under Article 14 of the Constitution of India would also apply to a man who has no choice or rather no meaningful choice, but to give his assent to a contract or to sign on the dotted line in a prescribed or standard form or to accept a set of rules as part of the contract, however unfair, unreasonable and unconscionable a clause in that contract or form or rules may be. We find that the said observations rightly apply to the facts of the present case. Can it be said that the mighty Union of India and an ordinary soldier, who having fought for the country and retired from Regular Army, seeking re-employment in the Territorial Army, have an equal bargaining power. We are therefore of the considered view that the reliance placed on the said document would also be of no assistance to the case of the respondents.”

(emphasis laid)

Therefore, it is clear that Courts are empowered to invalidate unconscionable elements of a contract where the parties lack the ability to exercise any real or meaningful choice in negotiating its terms. In the present case, the appellants were left with no alternative but to accept the conditions unilaterally prescribed by the respondent-State in order to secure their livelihood and sustain a source of income. It would be entirely unrealistic to assume that, in such circumstances, an employee seeking temporary employment could meaningfully negotiate or assert a position against the overwhelming might of the State machinery.

12.2. At this juncture, the analogy of apples and oranges serves as a useful reminder that certain relationships are inherently incapable of being assessed on an equal plane. A contract between the State and an employee stands on a similar footing. The State, in such a relationship, assumes the role of a metaphorical lion, endowed with overwhelming authority, resources and bargaining strength, whereas the employee, who is yet an aspirant, is reduced to the position of a metaphorical lamb, possessing little real negotiating power. To suggest parity between the two, i.e. the lion and the lamb, would be to ignore the stark imbalance that defines the relationship.

12.3. Therefore, where a lion contracts with a lamb, the inequality is not incidental but structural, and it is precisely this disproportion that calls for judicial sensitivity. In such situations, the conscience of Constitutional Courts must inevitably tilt in favour of protecting the lamb. We have no hesitation in holding

that Constitutional Courts are duty-bound to act to safeguard those who are vulnerable to exploitation, so that employees are not compelled to meekly submit to the demands of a vastly dominant contracting party like the State, but are instead assured that constitutional protections will intervene to prevent such exploitation.

Legitimate Expectation of the employees: -

*13. Another facet requiring consideration in the case of contractual employees, such as the present appellants, is the doctrine of legitimate expectation. Where employees have continued to discharge their duties on contractual posts for a considerable length of time, as in the present case, it is but natural that a legitimate expectation arises that the State would, at some stage, recognize their long and continuous service. It is in this belief, bolstered by repeated extensions granted by the Executive, that such employees continue in service and refrain from seeking alternative employment, notwithstanding the contractual nature of their engagement. At this juncture, it is thus apposite to advert to the principles governing the doctrine of legitimate expectation as enunciated by this Court in *Army Welfare Education Society v. Sunil Kumar Sharma*⁸, wherein it was held as follows: -*

“63. A reading of the aforesaid decisions brings forth the following features regarding the doctrine of legitimate expectation:

63.1. First, legitimate expectation must be based on a right as opposed to a mere hope, wish or anticipation;

63.2. Secondly, legitimate expectation must arise either from an express or implied promise; or a consistent past practice or custom followed by an authority in its dealings;

...

63.5. Fifthly, legitimate expectation operates in the realm of public law, that is, a plea of legitimate action can be taken only when a public authority breaches a promise or deviates from a consistent past practice, without any reasonable basis.

...

64. The aforesaid features, although not exhaustive in nature, are sufficient to help us in deciding the applicability of the doctrine of legitimate expectation to the facts of the case at hand. It is clear that legitimate expectation, jurisprudentially, was a device created in order to maintain a check on arbitrariness in State action. It does not extend to and cannot govern the operation of contracts between private parties, wherein the doctrine of promissory estoppel holds the field.”

(emphasis laid)

It is, therefore, not difficult to comprehend the expectation with which such contractual employees continue in the service of the State. The repeated conduct of the employer-State in expressing confidence in their performance and consistently granting monetary upgrades & tenure extensions reasonably nurtures an expectation that their long and continuous service would receive further recognition.

13.1. Another Constitution Bench in State of Karnataka v. Umadevi⁹, cautioned that the doctrine of legitimate expectation cannot ordinarily be extended to persons whose appointments are temporary, casual or contractual in nature. The relevant extract of the judgment reads as follows: -

“47. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognised by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in cases concerned, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post.”

(emphasis laid)

However, this Court in Umadevi (supra) clarified that the bar against invocation of the doctrine of legitimate expectation applies only to those temporary, contractual or casual employees whose engagement was not preceded by a proper selection process in accordance with the extant rules. Consequently, where such engagement is made after following a due and lawful selection procedure, there is no absolute bar in law preventing such employees from invoking the doctrine of legitimate expectation.

Limits on Perpetual Contractual Engagements:

13.2. In the present case, the respondent-State had engaged the services of the appellants on sanctioned posts since the year 2012. It was only towards the end of the year 2022 that the respondents communicated that

no further extension of the appellants' engagement was likely to be granted.

13.3. In our considered opinion, the aforesaid action is not only vitiated by arbitrariness but is also in clear derogation of the equality principles enshrined in Article 14 of the Constitution. The respondent-State initially engaged the appellants in their youth to discharge public duties and functions. Having rendered long and dedicated service, the appellants cannot now be left to fend for themselves, particularly when the employment opportunities that may have been available to them a decade ago are no longer accessible owing to age constraints.

13.4. We are unable to discern any rational basis for the respondent-State's decision to discontinue the appellants after nearly ten years of continuous service. We are conscious that the symbiotic-relationship between the appellants and the respondent-State was mutually beneficial, the State derived the advantage of the appellants' experience and institutional familiarity, while the appellants remained in public service. In such circumstances, any departure from a long-standing practice of renewal, particularly one that frustrates the legitimate expectation of the employees, ought to be supported by cogent reasons recorded in a speaking order."

d) Somesh Thapliyal and another Vs. Vice Chancellor, H.N.B. Garhwal University and another (Supra):

"42. The submissions of the learned counsel for the respondents that the appellants have accepted the terms and conditions contained in the letter of appointment deserves rejection for the reason that it is not open for a person appointed in public employment to ordinarily choose the terms and conditions of which he is required to serve. It goes without saying that employer is always in a dominating position and it is open to the employer to dictate the terms of employment. The employee who is at the receiving end can hardly complain of arbitrariness in the terms and conditions of employment. This Court can take judicial notice of the fact that if an employee takes initiation in questioning the terms and conditions of employment, that would cost his/her job itself.

43. The bargaining power is vested with the employer itself and the employee is left with no option but to accept the conditions dictated by the authority. If that being the reason, it is open for the employee to challenge the conditions if it is not being in conformity with the statutory requirement under the law and he is not estopped from questioning at a stage where he finds himself aggrieved."

e) Randhir Singh Vs. Union of India and others (Supra):

“7. Our attention was drawn to *Binoy Kumar Mukerjee v. Union of India* [ILR (1973) 1 Del 427] and *Makhan Singh v. Union of India* [ILR (1975) 1 Del 227], where reference was made to the observations of this Court in *Kishori Mohanlal Bakshi v. Union of India* [AIR 1962 SC 1139 : (1962) 44 ITR 532] describing the principle of “equal pay for equal work” as an abstract doctrine which had nothing to do with Article 14. We shall presently point out how the principle, “equal pay for equal work”, is not an abstract doctrine but one of substance. *Kishori Mohanlal Bakshi v. Union of India* [AIR 1962 SC 1139 : (1962) 44 ITR 532] is not itself of any real assistance to us since what was decided there was that there could be different scales of pay for different grades of a service. It is well known that there can be and there are different grades in a service, with varying qualifications for entry into a particular grade, the higher grade often being a promotional avenue for officers of the lower grade. The higher qualifications for the higher grade, which may be either academic qualifications or experience based on length of service, reasonably sustain the classification of the officers into two grades with different scales of pay. The principle of “equal pay for equal work” would be an abstract doctrine not attracting Article 14 if sought to be applied to them.

8. It is true that the principle of “equal pay for equal work” is not expressly declared by our Constitution to be a fundamental right. But it certainly is a constitutional goal. Article 39(d) of the Constitution proclaims “equal pay for equal work for both men and women” as a directive principle of State Policy. “Equal pay for equal work for both men and women” means equal pay for equal work for everyone and as between the sexes. directive principles, as has been pointed out in some of the judgments of this Court have to be read into the fundamental rights as a matter of interpretation. Article 14 of the Constitution enjoins the State not to deny any person equality before the law or the equal protection of the laws and Article 16 declares that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. These equality clauses of the Constitution must mean something to everyone. To the vast majority of the people the equality clauses of the Constitution would mean nothing if they are unconcerned with the work they do and the pay they get. To them the equality clauses will have some substance if equal work means equal pay. Whether the special procedure prescribed by a statute for trying alleged robber-barons and smuggler kings or for dealing with tax evaders is discriminatory, whether a particular governmental policy in the matter of grant of licences or permits confers unfettered discretion on the Executive, whether the take-over of the empires of industrial tycoons is arbitrary and unconstitutional and other questions of like nature, leave the millions of people of this country untouched. Questions concerning wages and the like, mundane they may be, are yet matters of vital concern to them and it is there, if at all that the equality clauses of the Constitution have any

significance to them. The Preamble to the Constitution declares the solemn resolution of the people of India to constitute India into a Sovereign Socialist Democratic Republic. Again the word “socialist” must mean something. Even if it does not mean ‘to each according to his need’, it must at least mean “equal pay for equal work”. “The principle of “equal pay for equal work” is expressly recognized by all socialist systems of law, e.g., Section 59 of the Hungarian Labour Code, para 2 of Section 111 of the Czechoslovak Code, Section 67 of the Bulgarian Code, Section 40 of the Code of the German Democratic Republic, para 2 of Section 33 of the Rumanian Code. Indeed this principle has been incorporated in several western Labour Codes too. Under provisions in Section 31 (g. No. 2d) of Book I of the French Code du Travail, and according to Argentinian law, this principle must be applied to female workers in all collective bargaining agreements. In accordance with Section 3 of the Grundgesetz of the German Federal Republic, and Clause 7, Section 123 of the Mexican Constitution, the principle is given universal significance” (vide International Labour Law by Istvan Szaszy, p. 265). The Preamble to the Constitution of the International Labour Organisation recognises the principle of ‘equal remuneration for work of equal value’ as constituting one of the means of achieving the improvement of conditions “involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled”. Construing Articles 14 and 16 in the light of the Preamble and Article 39 (d), we are of the view that the principle “equal pay for equal work” is deducible from those Articles and may be properly applied to cases of unequal scales of pay based on no classification or irrational classification though those drawing the different scales of pay do identical work under the same employer.

9. There cannot be the slightest doubt that the drivers in the Delhi Police Force perform the same functions and duties as other drivers in service of the Delhi Administration and the Central Government. If anything, by reason of their investiture with the “powers, functions and privileges of a police officer”, their duties and responsibilities are more arduous. In answer to the allegation in the petition that the driver-constables of the Delhi Police Force perform no less arduous duties than drivers in other departments, it was admitted by the respondents in their counter that the duties of the driver-constables of the Delhi Police Force were onerous. What then is the reason for giving them a lower scale of pay than others? There is none. The only answer of the respondents is that the drivers of the Delhi Police Force and the other drivers belong to different departments and that the principle of “equal pay for equal work” is not a principle which the courts may recognise and act upon. We have shown that the answer is unsound. The clarification is irrational. We, therefore, allow the writ petition and direct the respondents to fix the scale of pay of the petitioner and the driver-constables of the Delhi Police

Force at least on a par with that of the drivers of the Railway Protection Force. The scale of pay shall be effective from January 1, 1973, the date from which the recommendations of the Pay Commission were given effect.”

f) Shah Samir Bharatbhai and Ors. Vs. State of Gujrat and others (Supra):

“8. The State of Gujarat submits that a significant number of posts in Government Engineering and Polytechnic Colleges remained vacant for a long period, with some positions reportedly unfilled for over 20 years. It is stated that through a resolution in 2008, a decision was taken to appoint Assistant Professors on ad hoc basis, and this decision led to a large number of Assistant Professors being appointed on an ad hoc basis. In the same year, when AICTE sanctioned additional seats, the Government passed yet another resolution on 12.09.2008 sanctioning 156 posts of lecturers and it was then decided that the said posts must be filled on a contractual basis. Therefore, an advertisement was issued in September 2009 and it was notified that selection will be based on merit, confining to those who had obtained first division in the qualifying examination.

9. The respondents were appointed on contractual basis as Assistant Professors in various Governmental Engineering and Polytechnic Colleges of the State. In these appeals, we are concerned about their claim for parity in pay with Assistant Professors who are performing identical duties and functions.

22. In Sabha Shanker Dube v. Divisional Forest Officer⁴, while drawing the distinction between claims for regularization, and parity in pay, this Court affirmed the constitutional principle of equal pay for equal work and held:

“12. In view of the judgment in Jagjit Singh [State of Punjab v. Jagjit Singh⁵], we are unable to uphold the view of the High Court that the appellants herein are not entitled to be paid the minimum of the pay scales. We are not called upon to adjudicate on the rights of the appellants relating to the regularisation of their services. We are concerned only with the principle laid down by this Court initially in Putti Lal [State of U.P. v. Putti Lal⁶], relating to persons who are similarly situated to the appellants and later affirmed in Jagjit Singh [State of Punjab v. Jagjit Singh], that temporary employees are entitled to minimum of the pay scales as long as they continue in service.”

g) Kumari Laxmi Saroj and others Vs. State of U.P. and others (Supra):

“12. From the aforesaid, it can be seen that as such, there was no fault on the part of the appellants in not producing the U.P. Council registration either at the time

of submitting the application forms or even at the time of verification of the documents. As such, all the appellants except one had applied for U.P. Council registration before the date of advertisement i.e. 15-12-2021. Therefore, for no fault(s) of theirs, the appellants could not have been made to suffer.

13. The issue involved is directly covered by the decision of this Court in *Narender Singh v. State of Haryana* [*Narender Singh v. State of Haryana*, (2022) 3 SCC 286 : (2022) 1 SCC (L&S) 537]. In the said decision, it is observed and held by this Court that once it was found that there was no lapse/delay on the part of the applicant and/or there was no fault of the appellant/applicant in not producing the NOC at the relevant time, he cannot be punished for the same.

14. When the aforesaid decision was pressed into service before the High Court on behalf of the appellants, the High Court has not followed the same by observing that the directions issued by this Court in *Narender Singh* [*Narender Singh v. State of Haryana*, (2022) 3 SCC 286 : (2022) 1 SCC (L&S) 537], were in exercise of powers under Article 142 of the Constitution of India. The aforesaid is a misreading and/or misinterpreting of the judgment of this Court. This Court has specifically laid down the law that if it is found that there is no lapse/delay on the part of the applicant, he cannot be punished for no fault attributable to him. However, as in that case, another candidate/employee was already appointed, this Court had protected his service also while exercising the powers under Article 142 of the Constitution of India. Therefore, exercise of the powers under Article 142 of the Constitution of India was for protecting the service of another employee, Respondent 4 in that case. The High Court has as such, misread the judgment of this Court.”

h) Vijay Singh Vs. State of U.P. (Supra):

“20. Unfortunately, a too trivial matter had been dragged disproportionately which has caused so much problem to the appellant. There is nothing on record to show as to whether the alleged delinquency would fall within the ambit of misconduct for which disciplinary proceedings could be initiated. It is settled legal proposition that (sic it cannot be left to) the vagaries of the employer to say ex post facto that some acts of omission or commission nowhere found to be enumerated in the relevant rules is nonetheless a misconduct. [See *Glaxo Laboratories (I) Ltd. v. Presiding Officer* [(1984) 1 SCC 1 : 1984 SCC (L&S) 42 : AIR 1984 SC 505] and *A.L. Kalra v. Project and Equipment Corpn. of India Ltd.* [(1984) 3 SCC 316 : 1984 SCC (L&S) 497 : AIR 1984 SC 1361]]

21. Undoubtedly, in a civilised society governed by the Rule of Law, the punishment not prescribed under the statutory rules cannot be imposed. Principle enshrined in criminal jurisprudence to this effect is prescribed in the legal maxim *nulla poena sine lege* which means that a person should not be made to suffer penalty except for a clear breach of existing law.

22. *In S. Khushboo v. Kanniammal [(2010) 5 SCC 600 : (2010) 2 SCC (Cri) 1299 : AIR 2010 SC 3196] this Court has held that a person cannot be tried for an alleged offence unless the legislature has made it punishable by law and it falls within the offence as defined under Sections 40, 41 and 42 of the Penal Code, 1860, Section 2(n) of the Code of Criminal Procedure, 1973, or Section 3(38) of the General Clauses Act, 1897. The same analogy can be drawn in the instant case though the matter is not criminal in nature.”*

i) Bedanga Talukdar Vs. Saifudullah Khan and others (Supra):

“29. We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant statutory rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised, has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of equality contained in Articles 14 and 16 of the Constitution of India.”

j) K. Manjusree Vs. State of Andhra Pradesh and others (Supra):

“In Maharashtra SRTC v. Rajendra Bhimrao Mandve [(2001) 10 SCC 51 : 2002 SCC (L&S) 720] this Court observed that “the rules of the game, meaning thereby, that the criteria for selection cannot be altered by the authorities concerned in the middle or after the process of selection has commenced”. In this case the position is much more serious. Here, not only the rules of the game were changed, but they were changed after the game had been played and the results of the game were being awaited. That is unacceptable and impermissible.”

k) State of Uttar Pradesh and another Vs. Mohd. Arshad Khan and another (Supra):

“20. What Earl of Halsbury L.C. said in *Quinn v. Leatham* [*Quinn v. Leatham*, 1901 AC 495 (HL)] is important for our purposes here. We quote: (AC p. 506)

“... every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found.”

This proposition has been referred to with approval in a number of judgments of this Court including *State of Orissa v. Sudhansu Sekhar Misra* [*State of Orissa v. Sudhansu Sekhar Misra*, 1967 SCC OnLine SC 17] , *Kalyan Chandra Sarkar v. Rajesh Ranjan* [*Kalyan Chandra Sarkar v. Rajesh Ranjan*, (2005) 2 SCC 42 : 2005 SCC (Cri) 489] , *All India Haj Umrah Tour Organisers Assn. v. Union of India* [*All India Haj Umrah Tour Organisers Assn. v. Union of India*, (2023) 2 SCC 484 : (2022) 103 GSTR 434] .

21. When a court in its order or judgment, or when a counsel appears before a court reference to and reliance upon a judgment is made, it is not a mechanical exercise. It needs to and should reflect application of mind. This application of mind is in connection with the evaluation of material facts of the two cases, since they are essential to decision-making. Only those facts that bear a direct nexus to the legal principle applied constitute the material factual substratum of the precedent. This exercise is *ex facie* absent in the impugned orders [*Mohd. Arshad Khan v. State of U.P.*, 2025 SCC OnLine All 8130] , [*Sanjay v. State of U.P.*, 2025 SCC OnLine All 8132] , [*Mohd. Zaid Khan v. State of U.P.*, 2025 SCC OnLine All 8131] . The directions in *Shobhit Nehra* [*Shobhit Nehra v. State of U.P.*, 2024 SCC OnLine All 4627] , which were justified in the said factual context, have been applied without appropriate reference to the facts of this case. The same cannot be said to be in accordance with law.”

I) Vineeta Srinandan Vs. High Court of Judicature at Bombay on its own motion (Supra):

“9. The second ground on which the judgment of the High Court cannot be sustained is the erroneous reliance placed on the decisions referred to above. This Court has consistently held that the ratio decidendi of a judgment must be understood in the context of its facts and the issue decided therein. Only where the factual matrix is materially similar can the ratio in an earlier decision be applied. In this regard, reference may be made to the decision of a three-Judge Bench of this Court in *Royal Medical Trust v. Union of India*⁹, the relevant extract of which is set out hereinbelow:—

“28. It is well settled in law that the ratio of a decision has to be understood regard being had to its context and factual exposition. The ratiocination in an authority is basically founded on the interpretation of the statutory provision. If it is

based on a particular fact or the decision of the Court is guided by specific nature of the case, it will not amount to the ratio of the judgment.”

(emphasis supplied)

9.1. Further, another three-Judge bench of this Court in *Union of India v. Dhanwanti Devi*, (1996) 6 SCC 44, held that:—

“9. . . . It is not everything said by a Judge while giving judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. . . . A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in the judgment. Every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there is not intended to be exposition of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. It would, therefore, be not profitable to extract a sentence here and there from the judgment and to build upon it because the essence of the decision is its ratio and not every observation found therein. The enunciation of the reason or principle on which a question before a court has been decided is alone binding as a precedent. The concrete decision alone is binding between the parties to it, but it is the abstract ratio decidendi, ascertained on a consideration of the judgment in relation to the subject-matter of the decision, which alone has the force of law and which, when it is clear what it was, is binding. It is only the principle laid down in the judgment that is binding law under Article 141 of the Constitution. A deliberate judicial decision arrived at after hearing an argument on a question which arises in the case or is put in issue may constitute a precedent, no matter for what reason, and the precedent by long recognition may mature into rule of stare decisis. It is the rule deductible from the application of law to the facts and circumstances of the case which constitutes its ratio decidendi.”

(emphasis supplied)

Therefore, it is a settled position that where a decision turns upon its own facts or is guided by the peculiarities of a particular case, it does not constitute the ratio of the judgment. In Dhanwanti Devi (supra), this Court cautioned that it is neither profitable nor permissible to rely upon isolated lines from a judgment, for the binding element lies in the ratio decidendi and not in every observation contained therein.

9.2. In the present case, the High Court placed reliance on the decisions referred to earlier and concluded that the appellant-contemnor's act of issuing the contemptuous circular could not be regarded as fair criticism, and that the statements therein were calculated to ascribe improper motives to the Court and its Judges. Proceeding on this basis, the High Court sentenced

the appellant-contemnor to simple imprisonment for a period of one week and imposed a fine of Rs. 2,000/-.

9.3. In our considered view, the reliance placed by the High Court on the decisions of this Court stands misplaced. The distinguishing features of those cases were not duly appreciated. In Dr. D.C. Saxena (supra) and Perspective Publications (P) Ltd. (supra), the contemnors had not offered any apology. In Roshan Lal Ahuja (supra), the apology initially tendered was later withdrawn. In Rajendra Sail (supra), though an unconditional apology was offered, this Court declined to accept it in view of the gravity of the allegations, which included imputations made in a public rally that a sitting Judge had been bribed and possessed assets disproportionate to income. The factual matrix of the present case is materially distinct, and therefore, the precedents relied upon could not have been applied as a basis to record the conviction or justify the sentence imposed upon the appellant-contemnor.”

Judgments relied upon by learned counsel for respondent Nos.2 to 6:

a) Rajasthan State Roadways Transport Corporation Vs. Paramjeet Singh (Supra):

“8. We find merit in the submission. The terms of the appointment indicate that the respondent was on a purely contractual appointment and that the services could be dispensed with without notice at any stage.

10. Having regard to the terms of the contractual engagement, we are of the view that the action of the appellant cannot be faulted. We accordingly allow the appeal and set aside the impugned judgment and order [Rajasthan SRTC v. Paramjeet Singh, Special Appeal Writ No. 859 of 2016, order dated 19-9-2016 (Raj)] of the High Court. In consequence, the writ petition filed by the respondent shall stand dismissed. However, there shall be no order as to costs.”

b) Chief Executive Officer, Zila Parishad, Thane and others Vs. Santosh Tukaram Tiware and others (Supra):

“13. In the appointment order itself it was specifically provided that if at the said place appointment of Zila Parishad driver is done then the appointment of driver concerned will be terminated. Therefore, at the relevant time neither there was any selection process followed nor it can be said that the appointment of respondent as driver was made after following due procedure as required. It appears that at the relevant time the appointment on contractual basis was made looking to the public interest and to see that the ambulance is not without any driver.

16. Merely because Respondent 1 continued in service for longer period on contractual basis the High Court ought not to have passed the order of regularisation more particularly, when a policy decision was taken to avail the services of the driver by the agency/contractor and that the appointment of

Respondent 1 and other similarly situated drivers was not made after any selection procedure. The appointment of Respondent 1 was purely on stopgap and on contractual basis.”

95. Having considered the rival submissions advanced by learned counsel for the parties, the material placed on record and the judgments relied upon by learned counsel for the parties, this Court finds that the controversy essentially revolves around the nature of the petitioner's initial appointment, the character of the post against which he was appointed, the legality of subsequently describing his engagement as contractual and paying him consolidated remuneration and the consequences flowing from his uninterrupted continuation on the post of House Matron till his attaining the age of superannuation.

96. At the outset, it is necessary to keep in mind that the petitioner's claim is not founded merely upon the length of his service. Ordinarily, mere long continuation on a temporary or contractual basis cannot, by itself, confer a right to regularisation. The constitutional scheme governing public employment requires appointment to public posts in accordance with the applicable recruitment rules. Equally, however, where the record demonstrates that a person was selected pursuant to an advertisement issued for a regular vacancy, the post forms part of the sanctioned cadre, the selection was undertaken by the competent authority under the applicable statutory rules and the employee thereafter continues to discharge the duties attached to that post for a prolonged period, the employer cannot, without any statutory foundation, retrospectively convert such appointment into one purely contractual merely by repeatedly issuing orders describing the engagement as temporary or contractual.

97. In the present case, the U.P. Sainik Schools (Ministerial Establishment) Service Rules, 1970 constitute the governing statutory framework. Rule 3 read with Appendix I prescribes the strength of the establishment and specifically includes five posts of House Matron.

Thus, the post of House Matron is not shown to have been created merely for a particular academic session or for a limited contingency. It forms part of the sanctioned establishment.

98. The advertisement dated 03.11.1998 assumes considerable significance. The advertisement invited applications for one post of House Matron and prescribed the scale of pay applicable to the post. There was no stipulation therein that the selected candidate would be appointed on contract, that the appointment would be for a fixed period, or that the selected candidate would receive only consolidated remuneration. On the contrary, the advertisement was issued pursuant to Rule 12 of the Rules, 1970, which contemplates recruitment through the Employment Exchange and/or advertisement in the press.

99. The statutory scheme, thereafter, prescribed a definite mode of recruitment. Rule 4 specifically provides for direct recruitment to the post of Matron. Rule 12 prescribes the procedure for direct recruitment, Rule 13 contemplates constitution of a Selection Committee in respect of substantive vacancies and vacancies likely to continue for more than one year, Rule 15 provides for preparation of the select list and Rule 16 requires the appointing authority to make appointment from such list in the order of merit, subject to suitability.

100. The petitioner states and the record placed before the Court supports that his candidature was sponsored through the Employment Exchange, he possessed the requisite qualification and experience, he appeared before the Selection Committee and was selected for appointment as House Matron. The appointment letter dated 28.06.1999 itself records his selection and suitability. There is no allegation that the petitioner obtained his appointment by fraud, misrepresentation, suppression of material facts or manipulation of the selection process.

101. It is true that the respondents have sought to question the regularity of the selection process by referring to the alleged absence of a written competitive examination and the manner in which the Selection Committee was constituted. However, these are matters relating to the conduct of the recruitment process by the employer. The petitioner had no control over the constitution of the Selection Committee, the mode in which the Selection Committee proceeded, or the administrative arrangements prevailing in the institution at the relevant time.

102. The principle that an employee cannot ordinarily be made to suffer for an administrative lapse attributable to the employer cannot, of course, be stretched to validate an appointment which was fundamentally contrary to the statutory recruitment scheme. But the facts of the present case stand on a different footing. The petitioner was not a back-door entrant seeking regularisation after merely securing employment without any selection. He responded to a published advertisement for a sanctioned post, was subjected to a selection process, was found suitable and was thereafter appointed by the authority competent to make the appointment.

103. The distinction is material. The cases in which the Hon'ble Supreme Court has declined regularisation merely on the basis of long contractual service generally involve appointments which were themselves *dehors* the statutory recruitment procedure, stopgap engagements, appointments made without selection, or appointments expressly made subject to a fixed term which came to an end in accordance with their terms. The present case cannot be equated with such appointments.

104. The interim order dated 24.07.2003 passed by this Court also assumes significance, though it cannot by itself be treated as the source of the petitioner's substantive right. While considering the challenge to the termination at the interlocutory stage, this Court noticed that the

Rules did not contemplate appointment of a Matron on contractual basis and further noticed that the advertisement did not stipulate contractual appointment. The Court also recorded that the petitioner had appeared before a regular Selection Board and that his selection was regular and legal in all respects as reflected from the initial appointment letter.

105. The respondents challenged the aforesaid interim order by filing Special Appeal No.363 of 2003. The Division Bench dismissed the appeal, observing that there was no reason to interfere with the interim order and that the same would remain subject to the final decision in the writ petition. It is, therefore, correct that the interim order did not finally adjudicate the petitioner's substantive rights. Nevertheless, the fact remains that the petitioner was, thereafter, permitted to continue on the very post of House Matron and the respondents did not succeed in obtaining any order restraining such continuation.

106. More importantly, the petitioner, thereafter, continued to discharge the very duties of House Matron for an extraordinary length of time and ultimately attained the age of superannuation on 08.10.2024. Thus, the continuation was not for a few months or for a limited stopgap period. The employer accepted the benefit of the petitioner's services for approximately twenty-five years after the interim order and approximately twenty-six years from the date of his initial appointment.

107. Such prolonged continuation is not being relied upon by this Court as an independent source of appointment. Rather, it is being considered along with the original advertisement, the sanctioned cadre post, the selection process, the appointment order, the statutory Rules and the conduct of the respondents over the entire period of service. These circumstances, taken cumulatively, make it impossible to accept the respondents' submission that the petitioner was throughout merely a contractual employee with no connection whatsoever with the sanctioned post of House Matron.

108. The subsequent appointment/extension orders issued from time to time also cannot be viewed in isolation. If the original appointment was made pursuant to a regular recruitment process against a sanctioned vacancy and the governing Rules did not provide for contractual appointment to the post, repeated descriptions of the petitioner as an "ad hoc" or "contractual" employee cannot, by themselves, alter the legal character of the appointment. The nomenclature employed by the employer cannot override the statutory Rules.

109. Rule 20 is particularly relevant in this regard. It expressly provides that the scale of pay admissible to persons appointed to the establishment, whether in a substantive or officiating capacity or as a temporary measure, shall be as indicated in Appendix I. The Rule does not create a separate category under which an incumbent selected for a cadre post may, indefinitely and without authority of law, be paid a consolidated amount in substitution of the prescribed scale.

110. Consequently, the condition imposed in the appointment letter requiring the petitioner to accept consolidated remuneration, to the extent it departed from the statutory pay structure applicable to the post, cannot be sustained merely because the petitioner, in circumstances of economic necessity, accepted the appointment. The subsequent acceptance of such remuneration does not constitute a waiver of a statutory right.

111. The decision in the case of *Somesh Thapliyal (supra)* is instructive on this aspect. The Hon'ble Supreme Court has recognised that an employee in public employment ordinarily does not possess a bargaining position comparable to that of the employer and that acceptance of terms imposed by the employer cannot prevent the employee from challenging a condition which is inconsistent with the governing statutory framework. The principle assumes greater relevance where the impugned condition was not disclosed in the advertisement

and is subsequently introduced to the disadvantage of the selected candidate.

112. The principle emerging from the case of ***Bhola Nath (supra)***, as relied upon by learned counsel for the petitioner, also reinforces the obligation of the State and its instrumentalities to act as a model employer. The State cannot take advantage of its superior bargaining position and compel an employee to accept a condition which is contrary to the statutory scheme, particularly when the employee has no meaningful alternative and has, thereafter, rendered long and satisfactory service.

113. The judgment in the case of ***Lokendra Kumar Tiwari (supra)***, relied upon by learned counsel for the petitioner also requires consideration in the factual context in which it was rendered. The Supreme Court therein was concerned with a situation where the recruitment process was initiated for regular appointments, the candidate participated in the same process as other candidates who were regularly appointed, but the candidate alone was subjected to contractual appointment without any disclosed or rational basis. The Hon'ble Supreme Court found such differential treatment impermissible.

114. The ratio of the aforesaid decisions cannot be mechanically transplanted to every case involving a contractual appointment. Its relevance here lies in the broader principle that an appointing authority cannot invite candidates pursuant to a process contemplated for a regular vacancy and, thereafter, without statutory authority or disclosure in the advertisement, impose upon the selected candidate a materially inferior mode of appointment.

115. Likewise, the decisions in the cases of ***Bedanga Talukdar (supra)*** and ***K. Manjusree (supra)*** emphasise that the conditions governing a selection process cannot ordinarily be altered after the process has

commenced or after the selection has taken place. In the present case, the advertisement did not inform prospective candidates that the selected candidate would be placed on an indefinite contractual arrangement on consolidated remuneration. The introduction of such a condition after selection was, therefore, not consistent with the principle of fairness in public employment.

116. The judgment in the case of *M.D. Zamil Ahmed (supra)* is also relevant, though again not for the proposition that long service automatically creates a right to regularisation. The principle relevant for the present controversy is that the State cannot, after permitting an employee to continue for a considerable period and after itself having condoned or acquiesced in an alleged irregularity, seek to take advantage of its own lapse, particularly when there is no allegation of fraud, manipulation or suppression attributable to the employee.

117. In the present case, there is no allegation that the petitioner committed any fraud or misrepresentation for obtaining appointment. The respondents themselves selected him, permitted him to work, repeatedly extended his engagement, continued to derive the benefit of his services and, after the interim order of this Court, permitted him to continue for more than two decades. The subsequent attempt to characterise the entire tenure as a purely contractual arrangement cannot, in the peculiar facts of the case, be accepted.

118. The reliance placed by learned counsel for the petitioner upon the case of *Vijay Singh (supra)* and *Kumari Laxmi Saroj (supra)* also supports the principle that an employee should not be prejudiced for a lapse, which is not attributable to him. The Court is conscious that these decisions arose in different factual settings. Nevertheless, the underlying principle that an administrative lapse cannot ordinarily be converted into a ground for penalising an employee, particularly where the employee himself has acted *bona fide*, is applicable to the present case.

119. The respondents have placed reliance upon the case of ***Rajasthan State Roadways Transport Corporation v. Paramjeet Singh (supra)***. The said judgment, however, does not advance the respondents' case in the present factual setting. There the terms of the appointment itself made it clear that the engagement was purely contractual and that the services could be dispensed with in accordance with those terms. The contractual character of the appointment was, therefore, apparent from the very beginning.

120. The present case stands on a materially different footing. Here, the advertisement was for a post in the sanctioned establishment; the Rules provided for direct recruitment to the post; the advertisement did not stipulate contractual appointment; the initial appointment order did not proceed upon a contractual scheme in the manner now asserted by the respondents; and the petitioner was selected by the competent authority. Thus, the very foundation upon which the decision in the case of ***Paramjeet Singh (Supra)*** rests is absent here.

121. The judgment in the case of ***Chief Executive Officer, Zila Parishad, Thane v. Santosh Tukaram Tiware (supra)*** is equally distinguishable. In that case, there was no regular selection process and the appointment itself was made on a stopgap contractual basis with a specific condition governing its termination. The Supreme Court accordingly declined regularisation merely because the employee had continued for a longer period.

122. In the present matter, the Court is not directing regularisation merely because the petitioner has served for a long period. The Court is examining the legal character of an appointment which commenced pursuant to an advertisement for a sanctioned cadre post and a selection process under the applicable Rules and which was thereafter kept alive through successive extensions and, ultimately, by an interim order of this Court.

123. The decisions of this Court relied upon by the respondents concerning other employees of the U.P. Sainik School also do not constitute an absolute bar to examination of the petitioner's claim. As rightly submitted by learned counsel for the petitioner, precedents are to be applied upon consideration of their material factual substratum. The Supreme Court in the case of ***State of Uttar Pradesh v. Mohd. Arshad Khan (supra)*** and ***Vineeta Srinandan (supra)*** has reiterated that a judgment is an authority for the proposition which actually arises for determination and that isolated observations cannot be divorced from the facts and statutory framework of the case.

124. The cases concerning ***Dr. Sursari Tarang Mishra (Supra)***, the employee involved in Special Appeal No.268 of 2013 and other employees of the institution, therefore, have to be examined with reference to the nature of their initial appointment, the recruitment process followed in each case and the terms of their appointment. The respondents cannot rely upon those decisions merely by describing the present petitioner as a contractual employee without demonstrating that the material features of his appointment were identical.

125. The principle laid down in the case of ***State of Karnataka v. Umadevi*** and the subsequent jurisprudence concerning regularisation also does not compel dismissal of the present writ petition. This Court is conscious that there can be no direction for regularisation of a person whose initial entry into public service was itself illegal or was made without following any fair selection process. The Constitution Bench decision cannot, however, be understood to confer upon a public employer an unrestricted power to convert an otherwise duly selected employee into a perpetual contractual employee contrary to the statutory Rules.

126. The present case, therefore, is not one where an employee seeks regularisation solely on the strength of long service despite an illegal

back-door entry. The petitioner's entry was preceded by advertisement, sponsorship through the Employment Exchange, consideration of eligibility, selection and appointment against a post included in the sanctioned establishment. The subsequent conduct of the respondents for more than two decades is also relevant in determining whether the petitioner could lawfully be deprived of the incidents of the service attached to that post.

127. This Court also finds substance in the petitioner's contention that the artificial breaks introduced through successive orders cannot be permitted to defeat the substance of the relationship. The petitioner was repeatedly re-engaged to perform the same duties at the same institution and against the same post. The work itself did not disappear. The very fact that he was again engaged after each purported expiry demonstrates that the requirement of the post continued.

128. The subsequent advertisement dated 07.06.2003 is itself significant. The termination order dated 09.05.2003 proceeded on the stated basis that there was no further need for the petitioner's services. Shortly thereafter, the respondents advertised the post of House Matron. The two actions are difficult to reconcile. If the work and requirement of House Matron continued to exist, the assertion that there was no further need for the petitioner's services could not, by itself, furnish a genuine basis for terminating an employee who had been selected and had been discharging the same duties.

129. In any event, the challenge to the subsequent advertisement has substantially lost its efficacy because the petitioner continued in service pursuant to the interim protection and ultimately retired on 08.10.2024. The surviving dispute is therefore principally as to the legal status and consequences of his service and the monetary and pensionary benefits flowing therefrom.

130. The Court is also conscious of the principle of "equal pay for equal work" recognised in the case of ***Randhir Singh (supra)***. The principle is not an automatic formula applicable irrespective of the nature of appointment or source of recruitment. Nevertheless, where an employee is performing the same duties attached to a sanctioned post and the statutory Rules prescribe the scale of pay for that post, the employer cannot, in the absence of lawful classification or statutory authority, perpetually deprive the employee of the prescribed pay merely by describing him as contractual.

131. The petitioner's claim for pay-scale benefits, therefore, does not rest solely upon the doctrine of equal pay for equal work. It is independently supported by Rule 20 of the Rules, 1970, which prescribes the scale of pay applicable to persons appointed to the establishment, including those appointed on a temporary measure.

132. The Court is accordingly of the considered view that the petitioner's initial appointment dated 28.06.1999/29.06.1999 was made against the sanctioned post of House Matron pursuant to a recruitment process substantially referable to the Rules, 1970 and that the respondents were not justified in subsequently treating the petitioner as a person having no relationship with the sanctioned cadre except as a contractual worker.

133. The impugned order dated 09.05.2003, whereby the petitioner's services were terminated on the ground that there was no further need for his services, therefore cannot be sustained. Apart from the fact that the post and work continued, the termination was inconsistent with the statutory framework governing the post and with the circumstances in which the petitioner had initially been selected and appointed.

134. The subsequent continuation of the petitioner pursuant to the interim order dated 24.07.2003, followed by his uninterrupted discharge

of duties until 08.10.2024, further reinforces the conclusion that the petitioner continued against the very post for which he had originally been selected. The respondents cannot now be permitted, after accepting the benefit of his services for more than two decades, to contend that the petitioner was a stranger to the sanctioned post and had merely been rendering services under an independent contractual arrangement.

135. At the same time, this Court does not consider it appropriate to treat the interim order as an order of appointment or to confer benefits merely on account of the interim protection. The rights of the petitioner are being determined on the basis of his original selection and appointment, the sanctioned nature of the post, the applicable statutory Rules and the subsequent conduct of the respondents.

136. Once the initial appointment is found to have been made against a sanctioned post pursuant to the prescribed recruitment framework, Rule 18 becomes relevant. The Rule provides for a probationary period of two years for a person appointed in or against a substantive vacancy. There is nothing on record to demonstrate that the petitioner's probation was validly extended in accordance with the proviso to Rule 18 by recording sufficient reasons and specifying the exact period of extension.

137. On the contrary, the record demonstrates satisfactory service. The petitioner has relied upon various communications and certificates appreciating his work and conduct. There is no material showing that his integrity was ever doubted or that any adverse order was passed on the ground of unsatisfactory performance. The respondents continued to entrust him with the duties of House Matron year after year.

138. In these circumstances, the respondents cannot indefinitely postpone the statutory consequences of appointment by simply avoiding the formal order of confirmation. Rule 19 contemplates confirmation upon satisfactory completion of probation, subject to the conditions

specified therein. The respondents' failure to pass an appropriate order in accordance with the Rules cannot operate to the prejudice of the petitioner after he has rendered uninterrupted service for approximately twenty-six years.

139. The Court is, therefore, satisfied that the petitioner's service is liable to be treated in accordance with the statutory status attached to the post of House Matron from the date of his initial appointment, subject to the applicable service rules, government orders and lawful verification of his service record.

140. Once that conclusion is reached, the consequence necessarily follows that the consolidated remuneration paid to the petitioner cannot be treated as the final and legally permissible remuneration for the entire period of his service. His pay is required to be fixed in the prescribed scale applicable to the post of House Matron under Appendix I and the Government orders applicable from time to time.

141. Such fixation shall necessarily take into account the increments and revisions of pay which became applicable from time to time, including the applicable pay revisions, subject to verification of the service record and the rules/orders governing the relevant periods. The respondents shall also determine the consequential difference in allowances and other admissible benefits.

142. The question of arrears, however, requires a balanced approach. The petitioner has already received the consolidated remuneration actually paid to him and has remained in service throughout. Therefore, while his pay is required to be notionally fixed in the prescribed scale from the date on which he became entitled thereto, the actual monetary arrears shall be calculated after giving credit for the amounts already paid to him.

143. The Court is also of the view that the period during which the petitioner continued pursuant to the interim order cannot be excluded merely because the interim order was expressly made subject to the final decision. The interim order protected his continuance; the respondents accepted his services under that protection; and the petitioner ultimately retired from the very post. The final adjudication now being rendered determines the substantive position and the consequential benefits must accordingly be worked out.

144. In view of the aforesaid discussion, the judgments relied upon by the respondents do not persuade this Court to take a different view. The distinguishing feature in the present matter is the petitioner's original selection against a sanctioned cadre post under the governing Rules, absence of any allegation of fraud or manipulation, absence of any contractual condition in the advertisement authorising the employer to create an indefinite contractual arrangement, satisfactory and prolonged service and the ultimate continuation of the petitioner until superannuation.

145. The Court, therefore, holds that the respondents were not justified in treating the petitioner as a purely contractual employee throughout his service and in denying him the statutory pay-scale and consequential service benefits attached to the post of House Matron.

146. Consequently, the writ petition deserves to be allowed. The impugned order dated 09.05.2003 is hereby quashed. The consequential challenge to the advertisement dated 07.06.2003 has become infructuous in view of the petitioner's subsequent continuation and retirement and is accordingly disposed of as such.

147. The petitioner shall be treated as having continued in service against the sanctioned post of House Matron from his initial appointment dated 28.06.1999/29.06.1999, subject to verification of the original

service record. His service shall be counted continuously for the purpose of fixation of pay, increments, qualifying service and other admissible service and retiral benefits in accordance with the Rules, 1970 and the applicable Government orders.

148. The respondents are directed to notionally fix the petitioner's pay in the prescribed scale applicable to the post of House Matron from the date of his initial appointment and thereafter revise the same from time to time in accordance with the applicable pay-revision orders, including the admissible increments and allowances. While undertaking such exercise, the respondents shall give due credit to the consolidated remuneration and other amounts already paid to the petitioner.

149. The respondents shall, thereafter, determine the consequential arrears of salary and other admissible monetary benefits. Having regard to the fact that the petitioner has already superannuated on 08.10.2024, the respondents shall also re-determine his last pay for the purpose of pension and other retiral benefits and refix the pensionary benefits accordingly.

150. The period of service from 29.06.1999 to 08.10.2024 shall, subject to verification of the service record, be taken into account for determining the qualifying service and other retiral benefits to which the petitioner is legally entitled. The respondents shall also examine and extend the benefit of provident fund and other statutory/service benefits in accordance with the applicable rules, after taking into account the amounts, if any, already credited or payable.

151. The entire exercise of verification, pay fixation, determination of arrears, revision of last pay, refixation of pension and calculation of retiral dues shall be completed within a period of four months from the date a certified copy of this order is produced before the competent authority.

152. After such determination, the consequential monetary benefits and arrears of pension shall be released to the petitioner within a further period of two months.

153. It is clarified that the arrears shall be determined on the basis of the legally revised pay and service record and not merely on the basis of the interim order dated 24.07.2003. The interim order is relevant as an order protecting the petitioner's continuance, whereas the entitlement declared by this judgment flows from the original appointment, the sanctioned post, the governing Rules and the subsequent service rendered by the petitioner.

154. In the peculiar facts of the case, where the petitioner entered service pursuant to a selection process for a sanctioned post, continued to discharge the duties of House Matron for approximately twenty-six years, remained in service pursuant to the protection granted by this Court and ultimately retired from the very post, denial of the statutory incidents of that service would result in manifest inequity and would permit the employer to take advantage of its own administrative acts. Such a consequence cannot be countenanced in a constitutional system governed by fairness, non-arbitrariness and the rule of law.

155. The writ petition is, accordingly, **allowed** in the aforesaid terms.

156. There shall be no order as to costs.

(Irshad Ali,J.)

September 17, 2026

Adarsh K Singh