

Non-Reportable

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No. 4443 of 2021
(Arising out of SLP (C) No.12171 of 2019)**

Vice Chancellor Anand Agriculture University

.... Appellant(s)

Versus

Kanubhai Nanubhai Vaghela and Anr.

.... Respondent (s)

WITH

**Civil Appeal No. 4444 of 2021
(@ SLP (C) No. 11429 of 2021 @ Diary No.3021 of 2019)**

**Civil Appeal No. 4445 of 2021
(@ SLP (C) No.15957 of 2019)**

J U D G M E N T

L. NAGESWARA RAO, J.

Leave granted.

- 1.** The point that arises for consideration in these appeals is whether the daily wagers/respondents are entitled for regularization of their services.

2. The appellant university engaged daily wagers at different agricultural research centers who are skilled, semi-skilled, unskilled and field labourers. The daily-wage workers have been working as plumbers, carpenters, sweepers, pump operators, helpers, masons etc. An industrial dispute was raised by the daily wagers seeking regularization of their services. The Industrial Tribunal, Rajkot directed the appellant to regularize the services of all the daily-rated labourers who have completed 10 years of service as on 01.01.1993 with pay and allowances along with other benefits of the permanent Class IV employees. The writ petition filed by the appellant against the judgment of the industrial tribunal was partly allowed by the High Court. The judgment of the industrial tribunal was set aside and the appellant was directed to make payment to the workmen at the minimum of the pay scale and to frame a scheme for regularization of such daily-rated labourers. The Letter Patent Appeal filed by the management was dismissed. During the pendency of the appeal filed against the judgment of the High Court by the appellant, a scheme for regularization of daily-rated labourers of Gujarat Agricultural University was framed.

3. According to the scheme, all daily wagers who have completed 10 years or more of continuous service with a minimum of 240 days in each calendar year as on 31.12.1999 shall be regularized as regular employees with effect from 01.01.2000 and shall be placed in the time-scale of pay applicable to the corresponding lowest grade in the university subject to certain terms and conditions. One of the conditions is that the daily-rated wagers shall be eligible and must possess the prescribed qualification for the posts at the time of their appointment on daily-rated basis. It was proposed in the scheme that the regularization will be against the posts/vacancies of the relevant categories. The daily-wage employees shall be regularized in a phased manner to the extent of available regular sanctioned posts/vacancies on the date of regularization and on the basis of seniority-cum-suitability including physical fitness. Such of those daily wagers who have completed 10 years of continuous service with a minimum of 240 days in each calendar year as on 31.12.1999 but could not be regularized shall be treated as monthly rated employees w.e.f. 01.01.2000 in the fixed pay without allowances.

4. The appeal filed by the university against the judgment of the High Court was disposed of by a judgment dated 18.01.2001 in ***Gujarat Agricultural University vs. Rathod Labhu Bechar & Ors.***¹ It was argued on behalf of the appellant therein that it would not be possible for the university to grant permanency to all its employees working as daily-rated workers, who have completed 10 years of service as on 01.01.1993. Therefore, the scheme proposed granting permanent status to all such employees who have completed 10 years or more of continuous service with a minimum of 240 days as on 31.12.1999. It was further contended by the university that daily wagers are not entitled to get the minimum wages of Class IV employees of the State.

5. An argument was advanced in the aforementioned appeal before this Court that all the daily wagers cannot be regularized or minimum pay scale cannot be given in view of the financial constraints. It was brought to the notice of this Court that there were 5100 daily-rated labourers. This Court rejected the said submission and observed that financial stringency is not a ground to deprive the daily wagers of their right for regularization in accordance to the scheme.

¹ (2001) 3 SCC 574

6. After considering the proposed scheme, this Court accepted the submission on behalf of the daily wagers that prescription of certain qualifications to be fulfilled at the time of appointment as a condition for regularization was not justified. This Court observed that it would not be appropriate to disqualify the daily wagers on the ground that they did not fulfill the prescribed eligibility criteria on the date when they were engaged initially as daily wagers. While considering the point related to the absorption of all the daily wagers at one point of time or in a phased manner, this Court observed that regularization can be made phase wise. It was made clear that posts should be created to absorb maximum number of workers who have completed 10 years as on 31.12.2000. The scheme proposed by the university was approved by this Court subject to certain modifications suggested. The additional regular posts required to be created by the university was directed to be done expeditiously. The first phase of absorption was directed to be completed within a period of 3 months and the scheme to be implemented expeditiously.

7. During the course of hearing, we were informed that the State Government passed a resolution on 01.04.2002

creating 890 posts for absorption of daily wagers in the university. It has also been brought to the notice of this Court that the State Government dissolved the erstwhile Gujarat Agricultural University in 2004 and constituted four new agricultural universities. The petitioner is one of the four agricultural universities. There are 740 daily wagers working in the university.

8. The respondents/daily wagers in these appeals filed writ petitions in the High Court of Gujarat seeking regularization in accordance with the scheme floated by the State of Gujarat and approved by this Court. The contentions of the petitioners in the writ petitions was that they were working in Class IV posts and they were eligible to be absorbed in accordance with the scheme. Though a number of colleagues of the respondents/daily wagers were given the benefit of regularization of their services, they were denied the same.

9. Writ petitions filed by the daily wagers were allowed by a common judgment of the High Court of Gujarat on 13.03.2018. The appellant university was directed to treat the respondents as permanent employees from the date they have completed 10 years of service as daily wagers. The

appeal filed by the appellant was dismissed by the Division Bench of the High Court of Gujarat affirming the direction of the learned single judge to regularize the services of respondents/daily wagers.

10. At the time of issuance of notice, we were informed by the learned senior counsel, appearing for the appellant that the benefits given to the respondents by the judgment of the High Court will not be withdrawn. We make it clear that the regularization of the services of respondents shall not be disturbed.

11. We have heard Mr. P.S. Patwalia, learned senior counsel for the university and Mr. Nachiketa Joshi, learned counsel for the respondents. The main contention of the university is that after the judgment of this Court in ***Secretary, State of Karnataka and Ors. vs. Umadevi and Ors.***², the respondents are not entitled for regularization as there are no sanctioned posts available. Another submission made on behalf of the appellant is that the judgment of this Court dated 18.01.2001 in **Gujarat Agricultural University** (supra) does not survive after the judgment of this Court in **Uma Devi**. It is no doubt true that in **Umadevi's** case, it has been held that regularization as a one-time measure can

² (2006) 4 SCC 1

only be in respect of those who were irregularly appointed and have worked for 10 years or more in duly sanctioned posts. However, in the instant case the respondents are covered by the judgment of this Court in **Gujarat Agricultural University** (supra). This Court approved the proposed scheme of the State of Gujarat and directed regularization of all those daily wagers who were eligible in accordance with the scheme phase-wise. The right to be regularized in accordance with the scheme continues till all the eligible daily-wagers are absorbed. Creation of additional posts for absorption was staggered by this Court permitting the appellant and the State of Gujarat to implement the scheme phase-wise. We are not impressed with the submissions made on behalf of the university that the judgment of this Court in **Umadevi's case** overruled the judgment in **Gujarat Agricultural University** (supra). The judgment of this Court in **Gujarat Agricultural University** (supra) inter partes has become final and is binding on the university. Even according to Para 54 of Uma Devi's case, any judgment which is contrary to the principles settled in **Umadevi** shall be denuded of status as precedent. This observation at Para 54 in **Umadevi's case** does not absolve

the university of its duty to comply with the directions of this Court in **Gujarat Agricultural University** (supra).

12. It was brought to the notice of this Court by Mr. P.S. Patwalia, learned senior counsel for the university that 890 posts were created coterminous with the services of those daily wagers who have been absorbed in those posts. He made a valiant effort to impress upon this Court that no further posts have been created and therefore, the remaining daily wagers cannot claim regularization of their services. Creation of 890 posts is by way of implementation of the directions given by this Court in **Gujarat Agricultural University** (supra) at the first stage. There is no ambiguity in the directions given by this Court in **Gujarat Agricultural University** (supra) that the obligation on the part of the university to implement the scheme by regularizing all the eligible daily wagers continued.

13. By an order dated 17.10.2011, persons similarly situated to the respondents were absorbed by being given the benefit of regularization. The Division Bench of the High Court has taken note of the discriminatory approach of the university in conferring the benefit of regularization to some and not to all those daily wagers who are eligible. There is

no error in the Judgment of the High Court which warrants interference by this Court. Eligible daily wagers in accordance with the scheme have been eagerly awaiting regularization as per the judgment of this Court in **Gujarat Agricultural University's case** (supra). The right of the respondents for regularization has been correctly recognized by the High Court.

14. For the aforementioned reasons, the appeals are dismissed.

.....J.
[L. NAGESWARA RAO]

.....J.
[ANIRUDDHA BOSE]

**New Delhi,
July 26, 2021.**