

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
[CIRCUIT BENCH AT PORT BLAIR]

PRESENT: THE HON'BLE JUSTICE AMRITA SINHA
WPA/71/2025

**BARATANG FOREST WORKER'S
UNION AND ANOTHER** **... PETITIONERS**

VS.

UNION OF INDIA AND OTHERS **... RESPONDENTS**

For the petitioners : Mr. Gopala Binnu Kumar
Ms. Vinita Devi

For the respondents : Mr. Rakesh Kumar

Heard and
Reserved on : August 28, 2026

Judgment delivered on : September 3, 2026

Judgment uploaded on : September 3, 2026

AMRITA SINHA, J.

1. The instant writ petition has been moved by a registered trade Union represented by the petitioner No. 2, its President. The workmen serving under the respondents are the members of the Union.

2. The challenge in the instant writ petition lies in a very small compass. By the order dated 12th January, 2021, the Conservator of Forests (Headquarters) accorded approval to the appointment of 122 Mazdoors, appointed earlier on ad hoc basis, in various forest

division on regular basis in the pay band with grade pay with effect from 21st May, 2015 and also regularized their period spent on ad hoc basis.

3. Submission of the petitioners is that the authority ought to have regularized the service of the workmen on and from their initial date of engagement and not from any hypothetical date. The writ petitioners submit that, the regularization had been made in line with the direction passed by the learned Labour Tribunal in the award dated 13th July, 2005 clearly mentioning that the benefit to be provided to the workmen from the date of their initial engagement.

4. According to the petitioners, the crucial date from which they would be entitled to the benefit of regularization is the date of their initial engagement. No other date, apart from the date of their initial engagement, should be considered for providing the benefit to the workmen.

5. It has been argued that the petitioners are fighting for the right of their members since 2002 and the authority cannot deprive the workmen of their legitimate dues on and from their initial date of engagement.

6. It has been submitted that the workmen were engaged on diverse dates starting from the year 1990 and after a prolonged legal

battle, the order of regularization has been passed in their favour. The date of regularization has to be taken as the date of their initial engagement. Giving benefit from a later date will manifest injustice and deprive the workmen financially.

7. According to the petitioners, the date of regularization has been erroneously mentioned. Prayer has been made to direct the respondents to extend the benefit of regularization with effect from the date of their initial engagement instead of the date as mentioned in the order of regularization i.e. 25th May, 2015. Prayer has also been made to direct the respondents to release all consequential benefit to the members of the Union by taking into consideration their initial date of engagement in compliance of the award dated 13th July, 2005.

8. Learned advocate representing the respondents opposes the prayer of the petitioner. It has been submitted that the learned Tribunal, in the award dated 13th July, 2005, did not decide upon the date of regularization of the workmen. The matter of regularization of the workmen was left open to be decided by the respondent authority.

9. It has been contended that as no date was fixed by the learned Tribunal from which the benefit of regularization could have

been passed, accordingly, the Court ought not to interfere with the date of regularization as prescribed in the impugned order.

10. It has been submitted that the Hon'ble Division Bench in **WP.CT/1497/2010** delivered judgment on **29th March, 2011** in the matter of **Mohan Kumar Das and Others vs. Union of India and Others** taking note of the fact that the issue of regularization of 136 Daily Rated Mazdoors (DRM) was left open by the learned Tribunal for consideration of the administration. Regularization was directed to be considered subject to availability of vacant posts and subject to fulfillment of recruitment rules. As the workmen did not challenge the award passed by the learned Tribunal and accepted the same, accordingly, the Union cannot challenge the date of regularization at such a delayed point of time.

11. It has been argued that the order of regularization was passed in the year 2021 with effect from 21st May, 2015. The same has been challenged by filing writ petition only in the year 2025, that is after a very long period of time. The writ petition is liable to be dismissed only on the ground of delay.

12. It has been contended that most of the workmen do not fulfill the requisite qualification for engagement. The authority adopted a lenient stand and allowed regularization of the workmen even

though they were not eligible for the same. The workmen ought not to make any further prayer for altering their date of regularization.

13. The respondents pray for dismissal of the writ petition.

14. In reply to the allegation of delay in filing the writ petition, the learned advocate for the petitioners submits that there has not been any delay in filing the present writ petition. It has been submitted that the issue of regularization was pending consideration before the Court in WPA/290/2019. The said writ petition stood disposed of on 18th December, 2019. Though, the learned senior counsel representing the Administration submitted upon instruction that the regularization process would be expedited and completed within three months and the same had been recorded in the order, but even thereafter, the Administration challenged the order dated 18th December, 2019 after a delay of 127 days by filing MA 036 of 2020.

15. The aforesaid appeal was considered by the Hon'ble Division Bench and dismissed on 14th October, 2020 by not interfering with the order dated 18th December, 2019. The Hon'ble Division Bench was, however, pleased to extend the time to complete the regularization process by four months.

16. The respondents challenged the order passed by the Hon'ble Division Bench by filing Special Leave to Appeal being No. 3387/2021 which stood dismissed on 09th March, 2021. After

dismissal of the Special Leave Petition by the Hon'ble Supreme Court, the impugned order of regularization was issued by the authority on 12th July, 2021.

17. An application for contempt being CPAN 18 of 2022 in MA 036 of 2020 was filed by the petitioners for non compliance of the direction passed by the Hon'ble Division Bench. Specific submission by the petitioners in the contempt was that the date of regularization of the workmen should be on and from the date when their services were availed of by the Administration. An affidavit of compliance was filed by the Administration disclosing that the order of regularization was duly issued.

18. The application for contempt was disposed of on 22nd November, 2024 with the observation that any further relief to which the writ petitioners are entitled to in law, shall not be foreclosed by reasons of acceptance of the affidavit of compliance. Immediately after the disposal of the contempt proceeding, the instant writ petition has been filed on 05th February, 2025. The petitioners diligently proceeded with the prayer for regularization.

19. I have heard and considered the rival submissions made by the learned advocates representing the respective parties and have perused the materials placed before the Court.

20. It is an admitted fact that the 122 DRMs who were regularized in service were engaged on diverse dates on and from 1990 onwards. After several rounds of litigation, the authority was compelled to regularize the service of the workmen. Though the scheme of regularization was framed on compliance of the direction passed by the judicial fora from time to time, but in none of the orders apart from the date of initial engagement, was taken note of.

21. The very first order in favour of the Union was passed by the learned Industrial Tribunal on 13th July, 2005. The Office Memorandum dated 11th December, 2006 on the subject of regularization of qualified workers appointed against sanctioned posts in irregular manner was issued by the Director, Ministry of Personnel, Public Grievances and Pensions, Government of India in compliance with the direction passed by the Constitutional Bench of the Hon'ble Supreme Court, in the matter of **Secretary, State of Karnataka and others vs. Umadevi (3) & Others** reported in **(2006) 4 SCC 1**.

22. After the authority regularized the service of the workmen, they cannot be heard to submit that the workmen did not possess the eligibility criteria for regularization. The Administration went upto the highest judicial forum to oppose the prayer for regularization. Only after their back touched the wall, the

Administration proceeded to regularize the workmen by passing order on 12th July, 2021.

23. At the time of passing the order of regularization, the authority took note of the date of engagement of the workmen on ad hoc basis on 21st May, 2015 and went on to regularize their service from the said date. The authority deliberately ignored and discarded the earlier service rendered by the workmen since 1990 onwards. No reason has been spelt out by the authority for not regularizing the service of the workmen from their initial date of engagement.

24. It is true that the award of the learned Tribunal did not spell out the specific date from which the service of the workmen had to be regularized, but at the same time, the learned Tribunal directed payment of daily wages to the workmen from the date of their initial engagement. The same implies that the date of initial engagement is the crucial date from which all service benefits ought to flow. Only because the workmen were engaged on ad hoc basis on a particular date, the same cannot be taken to be the date of regularization by disregarding the earlier period of service rendered by the workmen.

25. The award passed by the Tribunal was challenged by the Divisional Forest Officer, Baratang in WP No. 176 of 2005 which stood disposed of on 13th March, 2006 by observing that there was no evidence before the Tribunal from either of the parties about the

actual dates of initial engagement of the workmen as DRMs. The Tribunal was compelled to leave the matter to the employer to pass appropriate order from the respective date of initial engagement of the workmen. The Court affirmed the finding of the Tribunal that the nature of work of the workmen and the regular employees in the organization is the same.

26. The judgment dated 13th March, 2006 was carried in appeal by the Divisional Forest Officer, by filing MAT 16 of 2006 which stood dismissed by the Hon'ble Division Bench on 16th July, 2006. The order of the Hon'ble Division Bench was challenged by the Administration before the Hon'ble Supreme Court in SLP 698 of 2007. During the pendency of the SLP, the Conservator of Forests allowed the benefit of pay in compliance of the award.

27. Ultimately on 21st May, 2015 the Conservator of Forests issued order of ad hoc appointment of 122 DRMs who were engaged before 10th April, 1996 and had requisite qualification under the pre-revised recruitment rules, 1992 for the post Mazdoors at the time of their initial engagement on ad hoc basis with immediate effect. By the said order the pay band with grade pay was also fixed.

28. Even though the authority noticed that the DRMs were engaged before 10th April, 1996, but went on to regularize their service with effect from 21st May, 2015. The Office Memorandum

issued by the Ministry to take steps in compliance with the direction passed in the matter of Umadevi (supra) was issued on 11th December, 2006.

29. Before the learned labour Tribunal, none of the parties could specify any date with regard to the initial engagement of the workmen. In the order dated 21st May, 2015, the authority categorically disclosed that all the 122 DRMs were engaged before 10th April, 1996. From the said order dated 21st May, 2015, it can be safely concluded, that all the workmen were rendering service prior to 10th April, 1996.

30. For all practical purposes the authority ought to have taken 10th April, 1996 as the date of initial engagement of the workmen and ought to have provided service benefits to them on and from the said date and not from the date of ad hoc appointment. The order of regularization, accordingly, ought to have been with effect from 10th April, 1996 and not from 21st May, 2015. The very first litigation was instituted before the Tribunal in the year 2002. It may be that the workmen were working even prior to 10th April, 1996, but as no direct evidence of the initial date of engagement was produced before the learned Labour Tribunal, the fact finding Court, hence, to avoid any conflict of date in the absence of direct evidence, the date which was taken by the authority as the date of engagement ought

to have been considered for grant of regularization and all consequential relief.

31. It has to be kept in mind that the issue of regularization was left open by the learned Tribunal to be decided by the authority. At the time of taking a decision, the authority ought to have considered regularization on and from the date of initial engagement. As the date of initial engagement of the employees was not certain, the authority ought to have taken the date from where records are available to ascertain their engagement. The authority approved the appointment of the workmen by clearly noting that they were engaged before 10th April, 1996, suggesting that the authority is in possession of documents of the employees at least from 10th April, 1996.

32. The ground of delay in filing the present writ petition as raised by the respondents cannot be accepted by the Court. On the contrary, it appears that the workmen, through their Union, are diligently and persistently ventilating their grievances since 2002. Each and every order passed in favour of the workmen was assailed by the authority till the last level. The Court was compelled to execute the order by passing direction upon the authority to file affidavit in compliance. It does not appear that there has either been delay or laches on the part of the petitioners in filing the present writ petition.

33. In view of the discussions made hereinabove, the Court is of the considered opinion that the date of regularization and grant of all consequential benefit to the 122 DRMs ought to be taken as 10th April, 1996.

34. The respondents are directed to update the records of the workmen and recalculate their financial implications upon taking into consideration the date of regularization as 10th April, 1996 in place and instead of 21st May, 2015. The date of regularization mentioned in the order dated 12th July, 2021 regularizing the service of the DRMs with effect from 21st May, 2015, accordingly, stands set aside.

35. The competent respondent authority is directed to take steps to comply the direction passed hereinabove at the earliest but positively within a period of sixty days from the date of communication of this order.

36. The writ petition being WPA/71/2025 stands allowed.

37. There shall, however, be no order as to costs.

38. All parties are directed to act on a server copy of this judgment duly downloaded from the official website of this Court.

(AMRITA SINHA, J.)