

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

SWP No. 873/2014

Reserved On: 17th of September, 2026.

Pronounced On: 5th of October, 2026.

Uploaded On: 5th of October, 2026.

Operative part or full Judgment: **Full.**

1. Javed Ahmad Bhat (30 Years)

S/O Abdul Kareem Bhat
R/O Lalbazar, Hubby Colony,
Srinagar.

2. Mohammad Shafi Hajam (39 Years)

S/O Ghulam Rasool Hajam
R/O Garind Khurid, Budgam

3. Furhan Ahmad Chachoo (35 Years)

S/O Mohammad Yaseen Chachoo
R/O House No.2, Sector-B, Canal Avenue,
Rawalpura, Srinagar.

4. Danish Ahmad Khan (23 Years)

S/O Manzoor Ahmad Khan
R/O Devi Angan, Hawal, Srinagar.

... Petitioner(s)

Through: -

Mr. R. A. Bhat, Advocate.

V/S

1. Union of India,

Through Secretary to Government,
Ministry of Human Resources Development,
New Delhi.

**2. Indira Gandhi National Open University,
Maidan Garh, New Delhi.**

**3. Registrar (Administration),
Indira Gandhi National Open University,
Maidan Garh, New Delhi.**

**4. Director, Regional Service Division,
Indira Gandhi National Open University,
Maidan Garh, New Delhi.**

5. Regional Director, Regional Centre Srinagar,
Indira Gandhi National Open University,
Mantoo House, Rajbagh, Srinagar.
6. Selection Committee through its Convener,
Regional Centre, Srinagar.

... Respondents

Through: -

Ms Yasmeen Jan, Advocate vice
Mr Tahir Majid Shamsi, DSGI for R-1; and
Mr Bilal Ahmad Malla, Advocate for R-2 to 6.

Clubbed With:

(i) SWP No. 1548/2014

1. **Peerzada Adil Mehboob (29 Years)**

S/O Peerzada Gh. Ahmed
R/O 143 Housing Colony,
Bagi Mehtab, Srinagar.

2. Gulzar Ahmed Bhat (35 Years)

S/O Gh. Mohammad Bhat
R/O Puchal, Pulwama.

... Petitioner(s)

Through: -

Mr R. A. Bhat, Advocate.

V/S

1. **Union of India,**
Through Secretary to Government,
Ministry of Human Resources Development,
New Delhi.
2. Indira Gandhi National Open University,
Maidan Garh, New Delhi.
3. Registrar (Administration),
Indira Gandhi National Open University,
Maidan Garh, New Delhi.
4. Director, Regional Services Division,
Indira Gandhi National Open University,
Maidan Garh, New Delhi.
5. Regional Director, Regional Centre Srinagar,
Indira Gandhi National Open University,
Mantoo House, Rajbagh, Srinagar.

6. Selection Committee through its Convener,
Regional IGNOU Centre, Srinagar.

... Respondents

Through: -

Ms Yasmeen Jan, Advocate vice
Mr Tahir Majid Shamsi, DSGI for R-1; and
Mr Bilal Ahmad Malla, Advocate for R-2 to 6.

(ii) WP (C) No. 2870/2019

Manpreet Kour (30 Years)

D/O S. Jatinder Singh
R/O Gogji Bagh, Srinagar.

... Petitioner(s)

Through: -

Mr R. A. Bhat, Advocate.

V/S

1. **Union of India,**
Through Secretary to Government,
Ministry of Human Resources Development,
New Delhi.
2. Indira Gandhi National Open University,
Maidan Garh, New Delhi.
3. Registrar (Administration),
Indira Gandhi National Open University,
Maidan Garh, New Delhi.
4. Director, Regional Services Division,
Indira Gandhi National Open University,
Maidan Garh, New Delhi.
5. Regional Director, Regional Centre Srinagar,
Indira Gandhi National Open University,
Mantoo House, Rajbagh, Srinagar.
6. Selection Committee through its Convener,
Regional Centre, Srinagar.

... Respondents

Through: -

Ms Yasmeen Jan, Advocate vice
Mr Tahir Majid Shamsi, DSGI for R-1; and
Mr Bilal Ahmad Malla, Advocate for R-2 to 6.

CORAM: HON'BLE MR JUSTICE M. A. CHOWDHARY, JUDGE.
(JUDGMENT)

01. Since, in all the three above-titled connected Petitions, common questions of facts as well as law are involved, therefore, it is proposed to decide the same by this common Judgment.

02. The Petitioners, in all these three connected Writ Petitions, claiming to have been engaged on contractual basis in the Respondent-Indira Gandhi National Open University, Srinagar Centre for its different Sections, seek a direction upon the Respondents to treat and regularize them as Group C/ Group D employees against the posts on which they have been working since the date of their engagement, as well as to release and extend all benefits to them, as are being given to other regular employees of the Respondent-University performing the same job as that of the Petitioners, including leave. The Petitioners are also seeking direction upon the Respondents not to effect the break in service of the Petitioners after every 89 days and continue their services, till they are regularized/ confirmed.

03. Upon notice having been issued, the Respondents have filed their Objections, stating therein that the Petitioners have been engaged purely on daily-wage basis as a stop-gap arrangement for seasonal work arising during the course of admission and examination, against the posts which otherwise are required to be filled up in accordance with the conditions and provisions of the Recruitment Rules of 2010; that the services of the Petitioners, being purely daily-wage and seasonal in nature, cannot be regularized as such; that no regularization in favour of the Petitioners can be done against the provisions of the Rules which are in vogue and govern the functioning of the Respondent-University; that the Petitioners, being ineligible in terms of the Rules, cannot claim any benefit, much less regularization, against the posts as claimed in the Petitions; that it is settled position of law that when a person enters a temporary employment or gets engagement as a daily wager/ casual worker and the engagement is not based on proper selection, he is deemed to be aware of the natural

consequences of such an employment, therefore, cannot invoke Writ jurisdiction of this Court to seek regularization, inasmuch as all such posts are required to be filled up by a proper recruitment process under the relevant Statute.

04. Mr R. A. Bhat, the learned Counsel appearing for Petitioners in all these three connected Writ Petitions, submits that the Petitioners have been engaged against the posts which were lying vacant in the Respondent-University (IGNOU), w.e.f. 2008 onwards, through a due process of selection and that they are possessing the relevant qualifications with respect to the posts which they are holding; that the principle of **“equal pay for equal work”** is a well-established legal doctrine that emanates from Article 39 (d) of the Constitution of India, which directs the State to ensure that there is equal pay for equal work, therefore, the Petitioners, being engaged to perform similar work to that of their other regular counterparts, have a legitimate claim to equal pay.

05. He further submits that the Respondents, in the year 2010, have published Indira Gandhi National Open University (Non-Academic Employees-Group-A, B & C) Recruitment & Promotional Rules 2010 and, as per the said Rules, insofar as the post of Junior Assistant-cum-Typist is concerned, promotion to the said post has to be way of 25% from Multi-Tasking Staff, who have rendered a minimum of five years of continuous service in that grade with 10+2 or its equivalent with a typing speed of 40 words per minute in English or 35 words per minute in Hindi on computers, and keeping in view this rule position, as well as the fact that the Petitioners were appointed in 2008 onwards, as such, were to be designated as Multi-Tasking Staff, rendering them eligible to be promoted to the post of Junior Assistant-cum-Typist under the said 25% quota, having rendered five years of service in that cadre, however, the Department has failed to adhere to this rule position.

06. Mr Bilal Ahmad Malla, the learned Counsel appearing for Respondents No.2 to 6, on the other hand, submits that the Petitioners No. 1 to 4 in SWP No. 873/2014 were engaged as Daily Wagers in the year 2013 and, immediately after their engagement, they approached this Court and got interim orders, which are still in force; that in SWP No. 548/2014, the Petitioner No. 1 has already left the services during the pendency of this Writ Petition, whereafter, the Writ Petition got dismissed on 19th of February, 2025 and only Petitioner No.2, namely, Gulzar Ahmad Bhat, filed an application seeking restoration, whereafter the Writ Petition got restored; that, likewise, in WP (C) No. 2870/2019, the said Writ Petition got dismissed in default on 19th of February, 2025, whereafter, the Petitioner got the Writ Petition restored, however, the Petitioner has not joined the services after applying for maternity leave on 11th of March, 2025.

07. He has further argued that the similarly situated employees of the Respondent-University had sought the same and similar reliefs in the identical Petition which was allowed by the Writ Court vide Judgment dated 14th of March, 2016 and that against the said Judgement of the learned Writ Court, the Respondents filed a Letters Patent Appeal, being LPASW No. 91/2016, which came to be disposed on 3rd of April, 2024 by the Division Bench, thereby setting aside the Judgment/Order of the Writ Court and the Respondents were directed to consider the case of the Petitioners for regularization of their respective employment/ engagement.

08. He has next argued that the Petitioners are continuing on the strength of interim Orders passed by this Court and that the Constitution Bench of the Hon'ble Supreme Court in the celebrated Judgment rendered in **Uma Devi's** case has held that no right is accrued to an employee, if he/she is continuing on the interim Orders and will not create equity in favour of the concerned employee; that the Indira Gandhi National Open University (Non- Academic Employees, Group-A, B & C) Recruitment and Promotion Rules, 2010 are only applicable to such employees working on

regular/ temporary basis and do not apply to *ad hoc* appointments or daily wages or contractual employees, whereas, the terms and conditions of the engagement of the Petitioners herein, are governed by the engagement orders and undertakings submitted by them at the time of their respective engagements.

09. Heard learned Counsel for the parties, perused the pleadings available on record and considered the matter.

10. At the outset, it needs to be mentioned that the similarly engaged persons in the Respondent-University, as that of the Petitioners herein, way back in the year 2009, had approached this Court by way of a Writ Petition bearing SWP No. 1429/2009, seeking regularization of their services. The said Writ Petition came to be disposed of, vide Order dated 14th of March, 2016, by holding that the Petitioners therein shall be deemed to have been appointed on regular basis on the posts they stand appointed on contractual basis. It was further held by this Court that the Petitioners therein shall be given all service benefits, including salary, by treating them to have been appointed on regular basis and that they shall be entitled to all service benefits from the date of their appointment in pursuance to the selection process undertaken by the Respondents.

11. This Order of the Writ Court was assailed by the Respondent-University in LPA No. 91/2016 before the Division Bench of this Court. The Division Bench considered the matter and, ultimately, vide Judgment dated 3rd of April, 2024, the Division Bench, while observing that it is not clear that if the Respondent No.2-IGNOU's Regional Centre Srinagar is a permanent establishment then whether its administration and management is meant to be carried out by *ad hocism* by hiring and firing the work force, held the Order of the Writ Court to be not sound, be it on facts and/ or law and, accordingly, set aside the same.

12. Having set aside the Order of the Writ Court, the Division Bench, in terms of the aforesaid Judgment, also issued certain directions in Paragraph No. 48, which read as under:

“48. However, that is not the end of the *lis* as we have held that it is not clear to us that if the respondent No.2-IGNOU’s Regional Centre Srinagar is meant to have regular permanent service cadre as is borne out from the last engagement orders of the petitioners issued on the basis of selection process conducted then why the petitioners are reckoned to be dispensable after having put in respective length of service qua the positions held by them and gaining good working experience as against any raw manpower intended to be hired through outsourcing mode of getting manpower supplying agency, so we are inclined to subject the case of the petitioners for the consideration of the respondent No.2-IGNOU’s decision making authority whomsoever that may be and are therefore coming up with the disposal of the letters patent appeal bearing the outcome and observations as under:-

In the facts and circumstances above stated, we cannot concur with the directions passed by the learned writ court in its impugned judgment dated 14.03.2016. We hold that the learned writ court came to dawn upon itself the power and position of the employer i.e. respondent no. 2 – IGNOU in declaring the writ petitioners to be deemed to have been appointed on regular basis on the posts for which they came to be appointed on contractual basis and accordingly directing grant of all service benefits including salary in favour of the writ petitioners by reckoning their appointment on regular basis. The learned writ court overstepped its writ jurisdiction in positioning itself as the respondent no. 2 – IGNOU. We accordingly set aside the directions given in the impugned judgment.

However, we also come to hold that the petitioners have not been treated with clarity and fairness by the writ respondents 2 to 5, in particular by the respondent no. 2 – IGNOU.

The writ petitioners have invested good length of their life in service of the running of the writ respondent no. 2 – IGNOU’s Regional Centre Srinagar though by mode of getting engaged on daily wage/contractual basis but the recurring continuation/renewal of their respective engagement kept the functioning of the IGNOU Regional Centre Srinagar and in the course of time implanted an impression in the understanding of the writ petitioners that they are quasi-permanent in terms of their employment in IGNOU Regional Centre Srinagar.

We hold that respondent no. 2’s Regional Centres, in particular in the North-East, Sikkim and J&K, are in permanent establishment mode and, as such, have the cadre posts for employment and that is the reason that the petitioners came to be engaged and renewed in their engagement from time to time for working on the respective posts though on daily wage/contractual

basis against the posts available. Therefore, it is for the Board of Management of the respondent no. 2 – IGNOU to consider the aspect as to whether long serving contractual employees like the petitioners can be regularized in terms of their employment/engagement or not, and get a reasoned decision passed thereupon keeping in view the policy and practice if any being followed by the respondent no. 2 – IGNOU.

We, therefore, hold that till the Board of Management of the respondent no. 2-IGNOU considers and decides about the regularization of the petitioners in their respective employment/engagement the petitioners shall continue to be in employment/engagement in IGNOU Regional Centre Srinagar not to be replaced by any mode of daily wagers/contractual employment or through manpower supplying agencies.

The respondent no. 5 Regional Director, Regional Centre Srinagar, IGNOU shall forward the case of the petitioners detailing their respective length of employment/engagement against the posts to the LPASW 91/2016 Page 28 of 28 Board of Management of the respondent no. 2 – IGNOU within a period of one month whereupon the Board of Management of the respondent no. 2 shall consider and take a decision with respect to regularization of the petitioners in their respective employment/engagement.

Any decision on the part of the Board of Management of the respondent No.2-IGNOU to this effect in the event of being adverse to the petitioners shall entitle the petitioners to avail appropriate legal remedy as may be available at their respective end if they so desire at their respective discretion.”

13. From the perusal of the aforesaid Judgment rendered by the Division Bench of this Court, it is clearly discernible that the issues involved in the Petitions on hand have already been elaborately dealt with therein and, therefore, the directions as passed therein are squarely applicable to the facts and circumstances of the present Writ Petitions. The claim of the Petitioners seeking regularization of their services as also their continuation in service have been specifically dealt with in the directions passed by the Division Bench and, as such, it shall be appropriate to dispose of these connected Petitions on the same lines.

14. Viewed thus, all the above titled three Writ Petitions are allowed and shall stand **disposed** of in terms of the directions issued by the Division Bench in the aforesaid Judgment dated 3rd of May 2024, rendered in LPASW No. 91/2016 and the cases of the present Petitioners shall be

considered and dealt with in tune with the directions passed by the Division Bench in the aforesaid Judgment dated 3rd of April 2024, more particularly its Paragraph No. 48.

15. All these three Writ Petitions shall stand **disposed** of, accordingly, along with connected CM(s), in the above terms.

16. Registry to place a copy of this Judgment on all these three connected Writ Petitions, before being consigned to records.

(M. A. CHOWDHARY)
JUDGE

SRINAGAR
5th of October, 2026
"TAHIR"

i. Whether the Judgment is approved for reporting? Yes/ No.

