

IN THE HIGH COURT OF JHARKHAND AT RANCHI**W.P.(S) No. 2135 of 2020**

1. Shakti Nath Mahato, aged about 32 years, son of Late Late Sita Ram Mahato, resident of Village Bhelatand, P.O. Nagnagar, P.S. Barwadda, District Dhanbad (Jharkhand).
2. Md. Ainul Ali, aged about 44 years, son of Late Abdul Aziz, resident of I.S.M. Staff Colony, P.O. & P.S. I.S.M., Dhanbad, District Dhanbad.
3. Pranab Halder, aged about 39 years, son of Late Lakhi Kanta Halder, resident of near Dhैया, Durga Mandir, P.O. & P.S. I.S.M., Dhanbad, District Dhanbad.
4. Sanoj Kumar Sharma, aged about 29 years, son of Late Kailash Sharma, resident of I.S.M. Staff Colony, P.O. & P.S. I.S.M., Dhanbad, District Dhanbad.
5. Abhishek Kumar, aged about 25 years, son of Late Ram Chandra Prasad, resident of I.S.M. Staff Colony, P.O. & P.S. I.S.M., Dhanbad, District Dhanbad.
6. Amar Ram, aged about 36 years, son of Late Kuldip Ram, resident of I.S.M. Staff Colony, P.O. & P.S. I.S.M., Dhanbad, District Dhanbad.
7. Radhika Hansda, aged about 46 years, wife of Late Charwa Hansda, resident of 101, Damodarpur, P.O. Birajpur, P.S. & District Dhanbad.

..... Petitioner(s)

Versus

1. The Union of India through its Secretary, Ministry of Human Resource Development Department, Government of India, having its office at Shastri Bhawan, New Delhi, P.O. New Delhi, P.S. New Delhi, District New Delhi.
2. Ministry of Personnel, Public Grievance and Pension (Department of Personnel & Training), Government of India, through its Secretary, having office at New Delhi, P.O. New Delhi, P.S. New Delhi, District New Delhi.
3. Indian Institute of Technology (Indian School of Mines), Dhanbad, through its Director, having its office at Police Line Road, Main Campus, IIT (ISM), Dhanbad, P.O. Dampdarpur, P.S. Saraidhella, District Dhanbad - 826004
4. The Registrar, Indian Institute of Technology (Indian School of Mines), Dhanbad, having its office at Police Line Road, Main Campus, IIT (ISM), Dhanbad, P.O. Damodarpur, P.S. Saraidhella, District Dhanbad - 826004
5. A.R. (P. & S.) & Estate, Indian Institute of Technology (Indian School of Mines), Dhanbad,

having its office at Police Line Road, Main Campus, IIT (ISM), Dhanbad, P.O. Damodarpur, P.S. Saraidhella, District Dhanbad.

6. Sun Facility Services Private Limited, through its Director, having its office at E 1/654, Gomti Nagar, Virat Khand, near C.N.S. School P.O. & P.S. Gomti Nagar, District Lucknow (Uttar Pradesh).

..... **Respondent(s)**

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CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner(s) : Mr. Saurabh Shekhar, Adv

For the Respondents : Mr. Prashant Pallav, Adv

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C.A.V. ON: 22/06/2026

PRONOUNCED ON:10/07/2026

1. Heard learned counsel for the parties.
2. The present writ application has been preferred for compassionate appointment of the petitioners, in regular manner. At the same time, alternative prayer had been made for regularization of the services of the petitioner. In view of the fact that the matter has remained pending for around 06 years, and the petitioners have now completed more than 20 years of services, counting their engagement even prior to the filing of the writ application and they are in continuous service, therefore, now, it has been prayed that instead of being considered for compassionate appointment, the petitioners' matter be considered for regularization, in view of the latest judgments of the Hon'ble Supreme Court, as passed in the cases of **(1) Jaggo Vs. Union of India, (2024) SCC OnLine SC 3826; (2) Dharam Singh Vs. State of U.P., (2025) SCC OnLine SC 1735; (3) Bhola Nath Vs.**

State of Jharkhand &Ors., (2026) SCC OnLine SC 129.

3. Learned counsel for the petitioners has submitted that the petitioners were appointed against regular vacant posts, but the nature of their appointment was temporary, which is contrary to the scheme of compassionate appointment provided under the O.M. dated 09.10.1998 and 16.01.2013, wherein it was stated that such appointments should only be made on a regular basis, only when regular vacancies are available.

He has further submitted that it is evident from the letter dated 13.06.2018 issued by the Respondent No. 3, wherein the information regarding the sanctioned strength and working strength for the years 2011, 2014, 2015, and 2018 was furnished; hence it is true to conclude that the said sanctioned vacant posts were present; however, the claim of the petitioners are denied by the respondents on the sole ground that no such sanctioned vacant posts were present on which the services of the petitioners can be regularized.

4. *Per contra*, learned counsel for the respondents submitted that the petitioners cannot be appointed against any sanctioned posts till now, either due to non-availability of sanctioned vacant posts under Direct Recruitment Quota in Group 'C' & 'D' or non-fulfillment of requisite eligibility by

the petitioners.

He has also submitted that since compassionate appointment under the Scheme could be made only against regular vacant post, the petitioners claim for their appointment with retrospective date on regular posts is not tenable.

5. Having heard learned counsel for the parties and upon perusal of the materials on record, it transpires that the petitioners were earlier engaged on daily wages basis, in compassion, on account of death of regular employees of the respondent institution. They were engaged on daily wages basis, but were not given permanent post. They were allowed to continue as daily wagers from 2001 to 2017, and the dates vary for the respective petitioners marginally. In the year 2017, they were taken on outsourcing and the petitioners have been continuing to serve for the respondent authorities.

6. Thus, the matter has to be adjudicated on the point of regularization; as to whether the petitioners who have been performing services of Class-IV and Class-III for the respondents, qualify the requisite conditions for being regularized in permanent manner.

7. The primary requirement, as has been narrated by the Hon'ble Supreme Court, in the above-mentioned

judgments, is in relation to the fact that the services of the employees engaged on *ad-hoc* manner, should be continuous, and on that basis, it would be concluded that they have performed perennial nature of jobs for the respondent-authorities.

8. In the present case, the petitioners have performed on Class-III and Class-IV services for the respondents for more than 20 years now, and therefore, their nature of employment is perennial.

9. The next issue that is to be dealt with is in relation to the status of the employees. They are continuing on engagement on *ad hoc* basis. The question that the Hon'ble Supreme Court has raised in the above-mentioned judgments is that whether the status of *ad-hoc* or contractual appointment can continue in perpetuity. This has been deprecated by the Hon'ble Apex Court in the judgment of *Dharam Singh (supra)* and *Bhola Nath (supra)*. Therefore, the petitioners should be regularized on permanent establishment.

10. The next consideration that has to be taken-up is in relation to the availability of sanctioned posts. The Hon'ble Apex Court in the case of *Jaggo (supra)* has evolved a concept of '*sanctioned function*', as stated in para-20 of the judgment. It has been held that if an employee is continuing

on *ad-hoc* engagement for more than 20 years and in perpetuity, it will be deemed that the function assigned to him is a sanctioned one and therefore, he should be adjusted against the sanctioned post and non-availability of the same could not be considered as to be a reason for not granting regularization to the petitioners. This view was also relied by division Bench of this court in LPA No. 176 of 2023 in para 37 of its judgment. Similar view also finds support from reading of the judgment of ***Nihal Singh & Ors vs State of Punjab & ors***, reported in **(2013) 14 SCC 65** at para 35-37.

11. Further, as far as educational qualification is concerned; the Hon'ble Supreme Court in the case of ***Jaggo vs. Union of India***, at para-17 has held that the issue of educational qualification, especially in Class-IV post is of no value. Further, admittedly, the petitioners have been allowed to continue with the available qualification for more than 20 years, which has suited the purpose of the respondent-authorities. Therefore, their engagement cannot be termed as to be invalid on the ground of educational qualification. The petitioners now hold higher qualifications as has been given at para 11 of the pleading of the writ petition.

12. The issue thereafter that falls for consideration is that the status of employees that has been converted from

daily wagers to outsourcing in the year 2017-18, can be taken to help their case of regularization. The similar point fell for consideration before the Hon'ble Supreme Court in the case of ***Jaggo vs. Union of India***, in which the Hon'ble Apex Court has given a detailed outline of the conduct of the employer in practicing unfair labour actions, in taking work from the employees on outsource basis that continues in perpetuity. Such exercises on part of the respondent authorities have been deprecated and its effect has been discussed in detail at para-25 of the Judgement. It has been held that outsourcing cannot be used as a shield by the employer to justify their action of non-regularization of the employees on meagre wages and payment. Therefore, the Hon'ble Apex Court has finally ruled that the employees being continuing in outsourcing should be regularized.

13. The Court finds it profitable to refer the detailed point-wise discussion of the judgments provided herein-below, containing relevant paragraphs:

- i. *In the case of **Jaggo Vs. Union of India, (2024) SCC OnLine SC 3826**, the Hon'ble Supreme Court has deprecated the practice adopted by States of engaging employees under the nominal labels of "part-time", "contractual" or "temporary" in perpetuity and thereby, exploiting them by not regularizing their position. The Hon'ble supreme court at Para 25 has mentioned multifaceted forms of exploitation of the temporary /contractual employees. Finally at Para 28 direction has been issued to the State authorities to regularize the services of the temporary/ contractual employees.*
- ii. *In the case of **Dharam Singh Vs. State of U.P., (2025) SCC OnLine SC 1735**, the Hon'ble Supreme*

Court has strongly deprecated the culture of adhocism adopted by the State, in their capacity as employers. The Court has criticized the practice of outsourcing as a means to evade regular employment obligations, observing that such measures perpetuate precarious working conditions while circumventing fair and lawful engagement practices. The Hon'ble Supreme Court at Para 19 has further directed to regularize the services by creating supernumerary posts.

- iii. *In the case of **BholaNath Vs. State of Jharkhand &Ors., (2026) SCC OnLine SC 129**, the Hon'ble Court has held that the State having availed the services of appellants on sanctioned posts for over a decade pursuant to a due process of selection and consistently, acknowledging their satisfactory performance, cannot deny regularization in permanent establishment. As per the Hon'ble Apex Court, the repeated conduct of the State in expressing confidence in performance and granting tenure extensions reasonably nurtures an expectation that the long and continuous services of the employees would receive further recognition. Finally, at para-14., the Court has held that contractual stipulations, purporting to bar claims of regularization cannot override constitutional guarantee. Acceptance of contractual terms does not amount to waiver of fundamental rights.*
- iv. *In the case of **Shripal Vs. Nagar Nigam, (2025) SCC OnLine SC 221** and **Vinod Kumar Vs. Union of India, (2024) 9 SCC 327**, the Hon'ble Apex Court has cautioned against mechanical and blind reliance on Uma Devi judgment to deny regularization to temporary employees in the absence of statutory rules. It was held that the judgment of Uma Devi cannot be employed as a shield to legitimize exploitative engagements, continued for years without undertaking regular recruitment. The Court further clarified that Uma Devi itself was a distinction between appointments that are illegal and those that are merely irregular, later being amenable to regularization upon fulfillment of the prescribed conditions.*

14. In view of the above factual position and the applicable position of law as laid down by the Hon'ble Apex Court in catena of judgments, this Court is of the considered opinion that the case of the petitioners is also fit for creation of supernumerary post, so as to adjust the petitioners in regular establishment, thus, the

respondents are directed to regularize the services of the petitioners, by creation of supernumerary post, if needed. Further, the respondents are also directed to count their past services for continuity for the sake of terminal benefits.

15. Accordingly, the instant writ application stands allowed. Pending I.A.(s), if any, also stands closed.

(Deepak Roshan, J.)

Dated:10/07/2026
Amardeep/
A.F.R

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