



2026:DHC:6891-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on: 09.07.2026

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Judgment delivered on: 19.08.2026

CNR No: DLHC010287222026

+ **LPA 487/2026 & CM APPLs. 42209/2026**

OM PRAKASH GAUR AND OTHERS

.....Appellants

Through: Ms.Rashmi Chopra, Sr. Adv. with
Mr.Puneet Rathi and Mr.Shahrukh
Qureshi, Advs.

versus

**DELHI TECHNOLOGICAL UNIVERSITY
THROUGH ITS VICE CHANCELLOR**

.....Respondent

Through: Mr.Anil Kaushik, ASG with Mr.Kanu
Agrawal, Ms.Mehak Kumar,
Mr.Pranjal Singh and Mr.Nischal
Tripathi, Advs.

CNR No: DLHC010284752026

+ **LPA 481/2026 & CM APPLs. 41769-72/2026**

DELHI TECHNOLOGICAL UNIVERSITY

.....Appellant

Through: Mr.Anil Kaushik, ASG with Mr.Kanu
Agrawal, Ms.Mehak Kumar,
Mr.Pranjal Singh and Mr.Nischal
Tripathi, Advs.

versus

MOHD. ANSARI AND ORS.

.....Respondents



2026:DHC:6891-DB



Through: Ms.Rashmi Chopra, Sr. Adv. with
Mr.Puneet Rathi and Mr.Shahrukh
Qureshi, Advs.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA
J U D G M E N T

DEVENDRA KUMAR UPADHYAYA, C.J.

CAV 293/2026 in LPA 481/2026

1. Since the learned counsel for the Caveator has already entered appearance, the Caveat stands discharged.

CM APPL.42210/2026 &CM APPL.42211/2026 in LPA487/2026
CM APPL.41773/2026 in LPA 481/2026

1. The present applications have been filed seeking condonation of delay in filing and re-filing the present appeals. For the reasons stated in the applications the delay in filing and re-filing the present appeals is condoned. The applications stand disposed of.

LPA 487/2026 & CM APPLs. 42209-11/2026
LPA 481/2026 & CM APPLs. 41769-70/2026

1. These two *intra-court* appeals instituted under Clause X of the Letters Patent, one filed by the employees and the other filed by the employers (Delhi Technological University) are directed against the judgment dated 10.03.2026 passed by the learned Single Judge whereby W.P.(C) 10830/2020 instituted by the employees has been allowed and a direction has been issued to the University to consider regularization of the services of the employees after undertaking an exercise of structured review of sanctioned strength and



existing vacancies occupied by the employees with a further direction that where institutional requirements exists but sanctioned posts are found deficient, the University shall take expeditious steps in accordance with law to seek approval for creation or augmentation of posts commensurate with such requirement.

2. Thus, the direction issued by learned Single Judge in the impugned judgment is for taking steps for augmentation of sanctioned posts to the extent it is found deficient *qua* the institutional requirement and thereafter, undertake the exercise of regularizing the services of the employees against the available posts or against the posts which are created after undertaking the aforesaid exercise.

3. The grievance raised in *LPA 487/2026* instituted by the employees is that as a matter of fact the learned Single Judge ought not have issued directions to the University to undertake the exercise for sanction/creation of posts rather, the employees ought to have been declared to have been regularly appointed. To the aforesaid extent, the employees – appellants have challenged the impugned judgment.

4. As far as the University is concerned, by instituting *LPA 481/2026* the impugned judgment passed by learned Single Judge has been challenged in its entirety by making submission that since the initial engagement of the employees were not made in the services of the University by following the rules relating to recruitment, as such, any direction for regularization of their services could not have been issued by the learned Single Judge. The University has taken strong exception to the direction issued by the learned Single Judge in the impugned judgment whereby, the University has been



required to undertake the exercise of structured review of its sanctioned strength and thereafter, creation/sanction of posts.

5. The submission in this regard on behalf of the University is that the Courts cannot issue any direction for creation of posts to an employer for the reason that structure of cadre and creation of posts are the functions which are the sole preserve of the employer. It has also been argued that direction issued by the learned Single Judge for regularizing the services of employees runs contrary to the judgment of the Hon'ble Supreme Court in ***State of Karnataka v. Umadevi (3), (2006) 4 SCC 1***, for the reason that their initial appointments were made not against sanctioned posts and also by not following the regular recruitment process and accordingly, since the initial appointment was not merely irregular but it was absolutely illegal being contrary to recruitment rules and therefore, the direction for regularising the services of the employees could not have been issued by the learned Single Judge.

6. It is also argued on behalf of the employees that mere length of service, which, though may be long or even meritorious, cannot by itself be a source of entitlement for regularisation where the initial appointment was not compliant with the recruitment rules and procedure and therefore, the learned Single Judge has erred in law while issuing such directions. It is also the submission on behalf of the University that the employees were granted age relaxation and were permitted to participate in the regular recruitment process held in the year 2018-2019, however, all except one employee, failed to secure the minimum qualifying marks in the said recruitment process or did not participate in the regular recruitment process and



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therefore, any directions for consideration of regularising their services cannot be sustained.

7. Referring to various judgments cited on behalf of the employees in support of their claim for regularization of their services such as ***Vinod Kumar v. Union of India*, (2024) 9 SCC 327, Bhola Nath v. State of Jharkhand, 2026 SCC OnLine SC 129, Jaggo v. Union of India, 2024 SCC OnLine SC 3826, Shripal v. Nagar Nigam, 2025 SCC OnLine SC 221 and Pawan Sharma v. State (NCT of Delhi), 2025 SCC OnLine Del 8313**. It has been argued on behalf of the University that any regularisation of irregularly appointed employees can be sought only if the initial appointment was made not *de hors* the rules and such employees were subjected to a transparent and duly established selection process. In this regard, it has been stated on behalf of the University that the initial engagement of the employees in the service of the University was not made as per the provisions of the recruitment rules (as a matter of fact, no such recruitment rules existed at the time of initial engagement of the employees in the year 2010 and the engagement was made only on the basis of an advertisement issued for a walk-in selection process and appointments were made explicitly contractual). It was also stated that the advertisement pursuant to which the initial engagement of the employees was made was not widely publicised; rather, it was only published in newspapers having circulation in Delhi.

8. In this factual background, it is submitted on behalf of the University that since the initial engagement of the employees was not based on any transparent and rule-based selection process, direction for regularising their services could not have been issued by the impugned judgment passed by the learned Single Judge.



9. As far as the case set up by the employees in their appeal is concerned, the primary ground raised is that once the impugned judgment accepts the claim of the employees to be regularised in service, making the final relief of regularisation contingent upon an exercise to be undertaken by the University for sanctioning the posts, is not tenable. It is further argued that as a matter of fact since the initial engagement of the employees was made on the basis of a selection process after an advertisement for walk-in process of selection, direction issued for regularising their services from prospective date is not tenable, and employees are in fact, entitled to be treated to be regularised with effect from the date of their initial engagement in the services of the University.

10. In respect of the contentions raised by learned counsel representing the University, the learned counsel representing the employees has referred to the judgments in ***Vinod Kumar (supra)***, ***Bhola Nath (supra)***, ***Jaggo (supra)***, ***Shripal (supra)***, ***Pawan Sharma (supra)***, ***Dharam Singh v. State of U.P., 2025 SCC OnLine SC 1735*** and ***Sukhendu Bhattacharjee v. State of Assam, 2026 SCC OnLine SC 909***. On the basis of the said pronouncements of the Hon'ble Supreme Court, it has been argued that prolonged, continuous and unblemished service of the employees results in transformation of initial temporary employment into a demand for fair regularisation.

11. It has also been argued on behalf of the learned counsel representing the employees that the right of regularisation, as held by the Hon'ble Supreme Court in ***Vinod Kumar (supra)***, is not dependent on the initial terms of appointment where the course of employment has evolved over time through continuous service. It is also argued that though creation of



posts is an executive function, however, refusal to sanction posts cannot be immune from judicial scrutiny if such refusal is found to be arbitrary.

12. It has also been argued that even though some of the employees may have been initially appointed not against sanctioned posts, this fact by itself will not disentitle such employees from seeking regularisation of their services in view of the fact that all the employees have rendered continuous service for more than a decade, discharging regular functions equivalent to the functions discharged by regularly appointed incumbents.

13. We have thoughtfully considered the competing arguments made by learned counsel representing the respective parties and have also gone through the records available before us on these appeals.

14. All the employees were initially appointed in the year 2010 and 2011 on various posts such as Office Assistant, Senior Office Assistant, Junior Office Assistant, Assistant Librarian, Driver, Technical Assistant, Senior Mechanic, Junior Technical Assistant, Assistant Storekeeper etc. They have continued to serve the University and reportedly no adverse material against the functioning of any of these employees has been brought on record.

15. These employees instituted a writ petition in the year 2014, namely, *W.P.(C) 4221/2014* with a prayer for regularisation of their services/permanent employment under the University. The said writ petition was, however, dismissed as not pressed by the learned Single Judge *vide* order dated 23.02.2015 noticing therein the statement made on behalf of the employees that the University may possibly regularise their services. Learned Single Judge while passing the aforesaid order also provided that in case the employees are not regularised, then they will be at liberty to



approach this Court by way of filing a fresh writ petition provided such employees were not covered by the ratio in the case of *Umadevi (supra)*.

16. The order dated 23.02.2015 passed by learned Single Judge was challenged in *LPA 277/2015* and *LPA 275/2015* which came to be disposed of by a Coordinate Bench of this Court *vide* order dated 05.05.2015 noticing the office order issued by the Government of NCT of Delhi dated 16.02.2015 which provided that services of contractual employees would not be terminated till further instructions in the matter and in case any termination is likely to take place, the same would be stopped till further orders. The office order dated 16.02.2015 issued by GNCTD which was taken note of by the Division Bench while passing the order dated 05.05.2015 was issued expressing the resolve of the GNCTD that it would like to take a view on existing policy regarding status of contractual employees engaged in various departments and organisations of the State Government.

17. The Division Bench while disposing of the aforesaid LPAs *vide* order dated 05.05.2015 observed that in view of the said office order dated 16.02.2015, the employees were rightly advised to withdraw the writ petitions because there was a possibility of their services being regularised. The order dated 05.05.2015 passed by the Division Bench while disposing of the aforesaid appeals not only permitted withdrawal of the writ petitions but also granted liberty to all the employees to approach the Court if decision taken pursuant to the office order dated 16.02.2015 was adverse to the interest of the employees. Thus, the Division Bench *vide* order dated 05.05.2015 set aside the order dated 23.02.2015 passed by the learned Single Judge which permitted only those employees to approach the Court by way



of filing a fresh petition again, only in case they were not covered by the ratio in the case of **Umadevi (supra)** and permitted withdrawal of the writ petition granting liberty to all employees if decision taken pursuant to the office order dated 16.02.2015 was found adverse to their interest. The employees continued to discharge their functions under the services of the University.

18. *W.P.(C) 7737/2014* in the meantime, was instituted by the employees with a prayer for issuing a direction to the University to grant the same pay and allowances to the employees as were admissible to regularly appointed employees of the University. The said writ petition was allowed by this Court *vide* judgment dated 14.11.2018 whereby a direction was issued to the University to grant allowances such as HRA and TA etc., to the employees. We have been informed that the judgment and order dated 14.11.2018 passed by this Court in *W.P.(C) 7737/2014* and *W.P.(C) 7739/2014* has been implemented by the University and accordingly, all the employees who were initially appointed in temporary capacity in the year 2010 and 2011 are now being paid all the allowances as admissible to regularly appointed employees of the University.

19. However, though, in the order dated 05.05.2015 passed in *LPA 275/2015* and *LPA 227/2015*, the Coordinate Bench of this Court while noticing the office order dated 16.02.2015 issued by GNCTD had observed that at the relevant point of time the employees were rightly advised to withdraw the writ petitions because there was a possibility of their services being regularised; however, it appears that no attempt was made on behalf of the University to undertake any exercise for regularising the services of the employees. The University, though, appears to have conducted regular



recruitment process in the year 2018-19 granting age relaxation to the employees and allowing them to participate in the said regular recruitment process, however, only one of the contractual employees is said to have qualified in the said regular recruitment process and he has been appointed on regular basis. The contractual appointment of the employees is still continuing and they are being paid the allowances at par with the allowances admissible to the regularly appointed employees of the University, however since no consideration of their claim for regularising their services was made, the employees instituted the *W.P.(C) 10830/2020* which has been decided by the learned Single Judge by the impugned judgment dated 10.03.2026 where directions have been issued for regularising their services against the available vacancies/posts and where vacancies/posts are not available, the University has been directed to undertake an exercise of structured review of its sanctioned strength and create posts to the extent posts are found deficient, commensurate to the University's institutional requirement.

20. Learned Single Judge has considered the issue of regularisation in detail by passing the impugned judgment wherein, the judgment of Hon'ble Supreme Court in ***Umadevi (supra)*** and all later judgments have been discussed. We may notice that ***Umadevi (supra)*** does not altogether prohibit regularising the services of employees who are initially appointed on contractual/casual/daily wage or ad-hoc basis and have continued for a long period in public employment.

21. ***Vinod Kumar (supra)*** observes that continuous service of a contractual or temporary employee in the capacity of regular employee, who performs duties which are not distinguishable from the duties in permanent



posts, constitutes a substantive departure from the temporary and scheme-specific nature of their initial engagement. **Vinod Kumar (supra)** further discussing **Umadevi (supra)** has observed that distinction has to be made between ‘irregular’ and ‘illegal’ appointments. It has further been observed in **Vinod Kumar (supra)** that even if appointments in certain cases were not made strictly in accordance with the prescribed rules and procedure, such appointments cannot be said to have been made illegally, if they had followed the procedure of regular appointment, such as appointments have been based on written examination or interviews etc., Paragraph 5 and 7 of the judgment in **Vinod Kumar (supra)** is extracted herein below:

“5. Having heard the arguments of both the sides, this Court believes that the essence of employment and the rights thereof cannot be merely determined by the initial terms of appointment when the actual course of employment has evolved significantly over time. The continuous service of the appellants in the capacities of regular employees, performing duties indistinguishable from those in permanent posts, and their selection through a process that mirrors that of regular recruitment, constitute a substantive departure from the temporary and scheme-specific nature of their initial engagement. Moreover, the appellants' promotion process was conducted and overseen by a Departmental Promotional Committee and their sustained service for more than 25 years without any indication of the temporary nature of their roles being reaffirmed or the duration of such temporary engagement being specified, merits a reconsideration of their employment status.

7. The judgment in Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] also distinguished between “irregular” and “illegal” appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case. Para 53 of Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] is reproduced hereunder : (SCC p. 42)

“53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as



explained in S.V. Narayanappa [State of Mysore v. S.V. Narayanappa, 1966 SCC OnLine SC 23], R.N. Nanjundappa [R.N. Nanjundappa v. T. Thimmiah, (1972) 1 SCC 409] and B.N. Nagarajan [B.N. Nagarajan v. State of Karnataka, (1979) 4 SCC 507 : 1980 SCC (L&S) 4] and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases aboveresferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.”

(emphasis in original)”

22. Admittedly, in the present case, at the time when the initial engagement of the employees was made on contractual basis in the year 2010 and 2011 no recruitment rules were promulgated or were in vogue for regulating the regular recruitment process. It is also not in dispute that the appointment of the employees was made pursuant to an advertisement, which was issued in a newspaper having circulation in Delhi. They were also subjected to some kind of selection process and accordingly, in view of what has been held by Hon’ble Supreme Court in **Vinod Kumar (supra)** it cannot be said that initial engagement of the employees in this case was a



result of backdoor entry or in any manner was illegal altogether. Such appointments could, though be said to be irregular, therefore, process of regularisation of services of such employees, thus, can be ordered to be resorted to, considering the fact that they have continued to serve the University for more than one and half decades.

23. Accordingly, the submission made on behalf of the University that since the initial process by which the employees were appointed was on a non-rule basis and therefore, illegal and hence, direction for regularisation could not be issued by learned Single Judge, in our opinion, merits rejection. The Hon'ble Supreme Court in **Jaggo (supra)** has again discussed the decision in **Umadevi (supra)** and has observed that the decision in **Umadevi (supra)** does not intend to penalise employees who have rendered long years of service, fulfilling on-going and necessary functions of the State or its instrumentalities. It has further been observed that the said judgment only sought to prevent backdoor entries and illegal appointments, however, where appointments were not 'illegal' but possibly 'irregular' and where employees had served continuously for a considerable period, the need for a fair and humane resolution becomes paramount. Paragraph 20, 25, 26 and 27 of the report in **Jaggo (supra)** are extracted herein below:

“20. It is well established that the decision in Uma Devi (supra) does not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment sought to prevent backdoor entries and illegal appointments that circumvent constitutional requirements. However, where appointments were not illegal but possibly “irregular,” and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a scenario demanding fair regularization. In a recent



judgment of this Court in *Vinod Kumar v. Union of India*⁵, it was held that procedural formalities cannot be used to deny regularization of service to an employee whose appointment was termed “temporary” but has performed the same duties as performed by the regular employee over a considerable period in the capacity of the regular employee. The relevant paras of this judgment have been reproduced below:

“6. The application of the judgment in *Uma Devi* (supra) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over a considerable period through continuous service. Their promotion was based on a specific notification for vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in the case of *Uma Devi* (supra).

7. The judgment in the case *Uma Devi* (supra) also distinguished between “irregular” and “illegal” appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case...”

25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

- **Misuse of “Temporary” Labels:** Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labeled as “temporary” or “contractual,” even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.

- **Arbitrary Termination:** Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.



- **Lack of Career Progression:** Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.

- **Using Outsourcing as a Shield:** Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.

- **Denial of Basic Rights and Benefits:** Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.

26. While the judgment in *Uma Devi* (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between “illegal” and “irregular” appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in *Uma Devi* (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.

27. In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to



embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country.”

24. A Division Bench of this Court in **Pawan Sharma (supra)**, referring to **Jaggo (supra)**, **Shripal (supra)** and **Dharam Singh(supra)**, has held that in the said case since the employees were selected by a process which mirrors regular recruitment and they had worked continuously for several years and have been performing duties essential for the establishment or organisation, hence they were entitled to be regularised. It is to be noticed that in **Pawan Sharma (supra)** as well the advertisement pursuant to which the employees were initially engaged was for a walk-in interview only, as is the case with the employees in these two appeals. Paragraph 15 of the report in **Pawan Sharma (supra)** is extracted herein below:

“15. To our mind, the present petitions stand covered on facts by the decision in Vinod Kumar, Jaggo, Shripal and Dharam Singh. We have already set out the propositions emerging from the said decisions, and do not deem it necessary to repeat them in extenso. However, some principles, which are dispositive of the petitions before us, may be enumerated:

(i) If

(a) the employees are selected by a process which mirrors regular recruitment, by holding selections and interviews,

(b) they have worked continuously for several years, and

(c) they are performing duties essential for the establishment or organization, they are entitled to regularization.

(ii) The right to regularization, thus earned, is substantive in nature.

(iii) In such cases, the initial label under which they were recruited, whether part-time, or contractual, or casual, or ad hoc, or temporary, would not matter.

(iv) However, the appointment must not be illegal, mala fide, surreptitious, or “back door”.

(v) In such circumstances, it is not open to the respondents to contend that the posts occupied by the employees were not regular posts. The recurrent nature of the duties performed by the employees necessitated



the classification of the posts as regular, irrespective the original label under which the employees may have been appointed. The initial temporary, ad hoc, contractual, or casual, nature of their employment stood transformed, in such cases, “into a scenario demanding fair regularization”.

(vi) The right to regularization would enure, in such cases, even if the posts against which the employees were appointed were not sanctioned posts - though, in the present case, the posts against which the petitioners were appointed were sanctioned.”

25. The Division Bench in ***Pawan Sharma (supra)***, has also held that the right of regularisation in such cases would accrue even if the posts against which the employees were initially appointed were not sanctioned posts. The final direction issued in ***Pawan Sharma (supra)*** by the Division Bench of this Court is as under:

“22. The petitioners are, therefore, directed to be regularized against the posts on which they were originally appointed, irrespective of the labels governing such appointment. They would be entitled to fixation of pay treating them as having been regularly appointed ab initio. They shall also be entitled to all other benefits which would follow, except for back wages.”

26. In view of the detailed discussion of the entire law regarding entitlement of regularisation of a contractual/ad-hoc/temporary employee made by the Coordinate Bench of this Court in ***Pawan Sharma (supra)***, we are of the opinion that having regard to the facts of the instant case as well, the employees are entitled to be considered for regularisation of their services. Their long continuance of service with the University clearly indicates that ever since their initial appointment they have been performing functions and duties, the requirement of which is perennial and accordingly, they are entitled to be regularised in service.

27. The judgment of the Division Bench of this Court in ***Pawan Sharma (supra)***, was challenged in *Civil Appeal No. 7837/2026*, which had arisen



out of *SLP(C) No.17550/2026*. The said Civil Appeal, *vide* order dated 14.05.2026 passed by the Hon'ble Supreme Court, has been disposed of, maintaining the order of this Court with a clarification that the employees to be regularised pursuant to the order of this Court shall be placed below those employees who were regularly appointed candidates in the order of seniority. The directions issued for regularising the services of the employees in **Pawan Sharma (supra)** were, thus, maintained by the Hon'ble Supreme Court.

28. As regards the submissions made on behalf of the University that the learned Single Judge, while passing the impugned judgment, could not have issued a direction to the University to undertake an exercise of creating/sanctioning posts *vis-à-vis* the submission made on behalf of the employees that their cases for regularizing in service ought to be considered irrespective of the fact that they were engaged against a non-sanctioned post, we may refer to the judgment of the Hon'ble Supreme Court in the case of **Sukhendu Bhattacharjee (supra)**, where it was noted that the mere form of engagement of employees cannot be used to deny fair and equitable treatment to the employees who have served for long years. Hon'ble Supreme Court has further observed that **Umadevi (supra)**, cannot be invoked as a blanket barrier to justify prolonged and continued engagements of a temporary or ad-hoc nature, especially where the employees have been discharging essential and recurring functions of the State. The observations made by the Hon'ble Supreme Court in paragraphs 73, 76, 77 and 78 of the report in **Sukhendu Bhattacharjee (supra)** are quoted herein below:

“73. As regards the contention of Shri Gupta that after the decision in Umadevi (supra) no regularization can be effected in respect of employees who were not appointed against duly sanctioned posts, we are



unable to accept such a sweeping proposition in the facts of the present case. The submission proceeds on the premise that Umadevi (supra) lays down an absolute and inflexible embargo against all forms of regularization irrespective of the surrounding circumstances. Such an interpretation, in our considered view, does not reflect the true scope and ratio of the decision.

76. What emerges from the principles enunciated in the aforesaid decisions is that the State cannot rely upon the mere form of engagement to deny fair and equitable treatment to employees who have served it for long years. The consistent thread running through these judgments is that Umadevi (supra) cannot be invoked as a blanket barrier to justify prolonged and continued engagements of a temporary or ad hoc nature, especially where the employees have been discharging essential and recurring functions of the State. The Court has repeatedly emphasised that the distinction between “illegal” and “irregular” appointments must be kept in view, that long and continuous service is a relevant consideration, and that the State, as a model employer, is under a constitutional obligation to act with fairness, consistency and reasonableness. The practice of retaining employees for decades under deceptively titled designations, while simultaneously extracting regular work integral to the administration, has been disapproved consistently.

77. Applying these principles to the present case, it is evident that engaging workers on muster rolls was a consistently employed policy of the State which continued for prolonged period of time. The appellants were not engaged for sporadic or seasonal purposes but were taken on muster rolls and have rendered continuous service for decades in departments performing regular governmental functions. The State itself acknowledged the magnitude of the issue and framed a Cabinet policy to regularize similarly situated workers, acting upon it in respect of nearly 30,000 employees. In such circumstances, to deny consideration to the fraction of remaining eligible workers including the appellants, by taking shelter under a rigid reading of Umadevi (supra) would defeat the very principles of fairness and non-arbitrariness that this Court has consistently upheld.

78. In the aforesaid backdrop, we are unable to accept the contention of the State that the appellants cannot be granted regularization on the ground that they were not initially appointed against duly sanctioned posts. The State, having engaged the appellants prior to 1st April, 1993, utilised their services continuously for decades, and having itself framed and implemented a Cabinet policy regularizing nearly 30,000 similarly situated workers, cannot now exclude the appellants by taking shelter behind a rigid or technical reading of Umadevi (supra). In absence of



any cogent distinction or reasoned decision justifying such exclusion, the action of the State is manifestly arbitrary. It is inconsistent with its obligation to function as a model employer and does not withstand scrutiny under Article 14 of the Constitution.”

29. In view of the discussions made and reasons given above, in our opinion the impugned judgment dated 10.03.2026 passed by the learned Single Judge needs to be modified. Consequently, the appeals are disposed of with the following directions:

- (i) The University will consider regularization of the employees who are party to the proceedings of these appeals on their respective posts against which they were engaged in the year 2010 and 2011, if the vacancy in the posts against which their initial engagement was made, is available.
- (ii) In case, no vacancy in the post(s) against which employees were engaged initially in the year 2010 and 2011 is available or the post(s) are not sanctioned, then in such cases, for the purpose of regularising services of such employees, supernumerary post(s) shall be created and, accordingly, the claim for regularising their services shall be considered.
- (iii) If there arises a need of creation of supernumerary post(s) to comply with the direction (ii) as above, the term of such supernumerary post(s) so created, shall come to end on superannuation of the employee(s) who are regularised against such supernumerary post(s).
- (iv) The entire exercise as directed above, shall be completed within a period of three months from today.



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30. The impugned judgment dated 10.03.2026 passed by the learned Single Judge shall stand modified to the aforesaid extent.

31. There will be no order as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TEJAS KARIA)
JUDGE

AUGUST 19, 2026/MJ