



2026:AHC:53481

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 18081 of 2021

Kafi Ahmed Khan

.....Petitioner(s)

Versus

State of U.P. and 2 others

.....Respondent(s)

Counsel for Petitioner(s)	: Dhan Pal, Siddharth Khare
Counsel for Respondent(s)	: C.S.C., Hemant Kumar

**Reserved on 3.2.2026
Delivered on 17.3.2026**

Court No. - 34

HON'BLE VIKRAM D. CHAUHAN, J.

1. Heard Sri Ashok Khare, learned Senior Advocate assisted by Sri Kauntey Singh, learned counsel for the petitioner, learned Additional Chief Standing Counsel for respondent nos. 1 and 2 and Shri Hemant Kumar, learned counsel for respondent no 3.

2. The present writ petition is preferred by the petitioner challenging the impugned order dated 24.12.2020 passed by respondent No. 3 – Nagar Ayukt, Nagar Nigam, Bareilly and further prayer has been made to issue direction to the respondent no. 1 to regularize the services of the petitioner.

3. The brief facts of case is that petitioner joined as daily wage employee under Nagar Nigam, Bareilly on 1.11.2011 as Computer Operator/Clerk in the Construction Department, Nagar Nigam, Bareilly. The services of the petitioner was terminated on 28.8.2012 in view of the Government Order dated 23.7.2012. Thereafter, services of the petitioner was transferred as an outsource employee under the control of the registered contractor under Nagar Nigam, Bareilly and since then discharging his duties as contractual employee under the control of the respondents. The petitioner is working on the post in question under the outsourcing agency engaged by the respondent-Nagar Nigam. As the claim of petitioner for regularisation was not considered by the respondents, petitioner preferred Writ-A No.19814 of 2019 (Kaif Ahmed Khan Vs. State of U.P. and 2 others). The said writ petition was finally disposed of by order dated 9.12.2019 directing the respondent to consider claim for regularization of the petitioner. In pursuance to the above-mentioned order dated 9.12.2019 passed by this Court, the respondent authorities passed the impugned order dated 24.12.2020.

4. The impugned order dated 24.12.2020 refers to the fact that petitioner was appointed as a daily wage employee on the post of Computer Operator on 31.10.2011. In November, 2011 the services of the petitioner was extended from 2.2.2012 to 31.3.2012 and thereafter was further extended from 2.4.2012 to 30.5.2012 and subsequently, the petitioner has worked as an outsource employee. The claim of the petitioner has been rejected on the ground that under Government Order dated 24.2.2016 the services of the petitioner are not entitled to be regularized.

5. Learned Senior Counsel appearing on behalf of the petitioner submits that petitioner was initially working as a daily wage employee under the respondent No. 3 and subsequently status of petitioner has been unilaterally changed as an outsource employee by respondent no 3. It is further submitted that impugned order rejects the claim of the petitioner on the ground that the Government Order dated 24.2.2016 is

not applicable to the petitioner as the aforesaid Government Order permits regularization of employees who are working in Group-C post on daily wages up to 31.12.2001. Learned Senior Counsel further submits that claim of the petitioner is not covered by the aforesaid Government Order dated 24.2.2016, however, claim for regularisation of petitioner rest upon the judgment and direction of the Supreme Court in **Jaggo Vs. Union of India and others, 2024 SCC OnLine SC 3826** and **Shripal and Another Vs. Nagar Nigam, Ghaziabad, 2025 SCC OnLine SC 221**. Learned Senior Counsel appearing for the petitioner further submits that impugned order has not considered the regularization of the petitioner in proper prospective. It is further submitted that petitioner has been working under the respondents since 2011, at the initial stage, the petitioner was working as a daily wager employee, however, subsequently the services of the petitioner have been transferred as an outsourcing employee. The petitioner is working as a Computer Operator and it is not the case of the respondents that work of the petitioner is not of perennial nature. The long-standing employment of petitioner with the respondent no. 3 is indicative of the fact that work is of permanent nature and denial of regularisation of petitioner despite long-standing employment of more than 13 years is arbitrary in nature.

6. Learned counsel for respondent no. 3 has opposed the writ petition and submits that claim of petitioner for regularization has been rightly rejected by respondents. It is further submitted by learned counsel for respondent no. 3 that as per the Government Order dated 24.2.2016 the cut-off date of regularization of employees is 31.12.2001. The petitioner was earlier employed in the year 2011 as a daily wager, however, subsequently his services have been transferred as outsourcing employee. Learned counsel for respondent no. 3 does not dispute the law laid down by the Supreme Court in **Jaggo(supra)** and **Shripal (supra)**. It has also not been disputed by learned counsel for respondent no 3 that petitioner has been working with the respondents since the year 2011 although his capacity is as an outsource employee.

7. Learned Standing Counsel appearing on behalf of respondent nos. 1 and 2 has also opposed the prayer of petitioner in the writ petition and submits that claim of petitioner for regularization has been rightly rejected. Learned Standing Counsel, however, did not dispute the law laid down in **Jaggo(supra)** and **Shripal (supra)**.

8. The constitutional mandate emphasizes the State to act as a model employer. The obligation of model employer is to act with fairness and responsibility to treat its employees in a manner that protect employees livelihood, dignity and stable employment. The model employer is not expected to act in an exploitative manner. In this respect, the Supreme Court in **Bhola Nath Vs State of Jharkhand and others, 2026 SCC Online SC 129** has observed as under:

“11.1. This Court has consistently held that the State, being a model employer, is saddled with a heightened obligation in the discharge of its functions. A model employer is expected to act with high probity, fairness and candour, and bears a social responsibility to treat its employees in a manner that preserves their dignity. The State cannot be permitted to exploit its employees or to take advantage of their vulnerability, helplessness or unequal bargaining position.

11.2. It therefore follows that the State is required to exercise heightened caution in its role as an employer, the constitutional mandate casting upon it a strict obligation to act as a model employer, an obligation from which no exception can be countenanced.”

9. The State as employer sanctions various post in the departments and thereafter recruitment process is carried on in accordance with the service rules and the employees are appointed firstly on probation basis and thereafter on successful completion of the probation, the employees are granted permanent status. The permanent status of the employee brings stability of job along with the various perquisites available to the employee under the rules. The aforesaid permanent status also denies any exploitation being carried out by employer of the employee on

account of the vulnerability of the employee having temporary or contractual status.

10. The recruitment process against the sanctioned post required lengthy process of recruitment as a result of the same, employers resorted to adhoc appointment so that working of department concerned is not adversely affected. Such adhoc employees subsequently demand regularization, as has been in continuous service for a substantially long period, as a result of aforesaid employers are engaged in regularization process of such adhoc employment from time to time.

11. Another nature of employment that was carved by the employer was in the nature of a daily wage employee or contractual employee. The daily wage employee are engaged to cope up with the sudden increase in the work of department for a particular period or where there was additional work required to be undertaken for a particular period. The purpose of daily wage employee was never to substitute an employee who would be appointed on a substantive vacancy. The substantive vacancy are created by the employers after considering the amount of work required in the department and the manner of the hierarchy in which the department is required to function so that the functions of the department run smoothly and employer functions or the public is not in any manner be put to inconvenience.

12. Later on, the practice of engaging such daily wagers was at large scale being followed, which resulted in large number of employees working for substantial long period of time with a particular employer as a result of the same claim for regularization came into consideration with the employers and in certain cases such daily wage employees were granted regularization.

13. Considering the aforesaid situation that was prevailing a new method of recruitment was devised by employer by outsourcing human resource of department to a private entity. The aforesaid outsourcing process required the private entity to supply the workforce to department

concerned. The benefit for employer in the aforesaid process was that they were absolved from going through the regular recruitment process and those employees who were not working up to the mark could be removed without the lengthy process of termination of service as provided in the service rules. It must distinguish between the factor where the work itself is outsourced and where the human resource is outsourced. In the later the work of the department concerned remains to be performed within the department however the human resource for the completion of the work is supplied by an outsourcing agency. The system of outsourcing may have its own advantages to the employer however the difficulty arises when the employees are subjected to outsourcing policy for substantial long period which provides for room of exploitation and unfairness. Continuous long term employment by employer on outsourcing/daily wages, where duties are indispensable in nature, may indicate exploitative employment practices more particularly when the work in the department are performed by human resource supplied by outsourcing agency and thereby stopping or ignoring the regular mode of appointment on the sanctioned post.

14. It is also important to note that the post is sanctioned by employer considering the nature of work and the amount of human resource required in a particular work. There may be a case where the work in a particular department is increasing manifold on permanent basis and sanctioned strength of department may not be enough to cope up with increasing amount of work, the employer then is required to revisit the sanctioned strength and increase the same proportionately more particularly when the increased work is of a perennial and permanent nature. Instead of adopting the aforesaid route, the employer resort to gaining human resource from outsourcing agency. These human resource (supplied by the outsourcing agency) keeps on working for substantial long-term. The result of aforesaid policy is to the effect that long-standing employment on outsourcing basis results in the employee losing its future prospect, stable employment and on account of the

substantial long service such employees also lose their right to compete in regular recruitment process being over age under the service rules.

15. In **Bhola Nath (supra)** in reference of long-standing contractual employment has observed as under:-

“13.3. In our considered opinion, the aforesaid action is not only vitiated by arbitrariness but is also in clear derogation of the equality principles enshrined in Article 14 of the Constitution. The respondent-State initially engaged the appellants in their youth to discharge public duties and functions. Having rendered long and dedicated service, the appellants cannot now be left to fend for themselves, particularly when the employment opportunities that may have been available to them a decade ago are no longer accessible owing to age constraints.”

16. It is also to be considered that a person working for substantially long time with employer (without complaint) may develop a particular skill required for job. They make fewer mistakes, have a deeper understanding of best practices, and can execute tasks to a higher standard on account of their performing the work for fairly long time. Even otherwise, abandoning the regular recruitment process and resorting to outsourcing while keeping the sanctioned post vacant or not enhancing the sanctioned strength of a particular employment / department although the work of permanent nature in the concerned department had increased may be indicative of the fact that the employer is resorting to daily wage employees or outsourcing employees who receive minimum salary and as a result of the same the work which ought to have been performed by permanent employees who receive various increments, perquisites and revision of pay are being denied by taking the same work from outsourcing employees.

17. In **Jaggo (supra)** the Supreme Court has held in reference to outsourcing engagement, temporary employments and daily wages as follows :-

“22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue

that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.

23. ...

24. ...

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. ...

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.”*

18. The Supreme Court in **Bhola Nath (supra)** has considered the effect of unconscionable elements of a contract where the parties lack the ability to exercise any real or meaningful choice in negotiating its terms in respect of contract employment and has observed as under :-

“12.2. *At this juncture, the analogy of apples and oranges serves as a useful reminder that certain relationships are inherently incapable of being assessed on an equal plane. A contract between the State and an employee stands on a similar footing. The State, in such a relationship, assumes the role of a metaphorical lion, endowed with overwhelming authority, resources and bargaining strength, whereas the employee, who is yet an aspirant, is reduced to the position of a metaphorical lamb, possessing little real negotiating power. To suggest parity between the two, i.e. the lion and the lamb, would be to ignore the stark imbalance that defines the relationship.*

12.3. Therefore, where a lion contracts with a lamb, the inequality is not incidental but structural, and it is precisely this disproportion that calls for judicial sensitivity. In such situations, the conscience of Constitutional Courts must inevitably tilt in favour of protecting the lamb. We have no hesitation in holding that Constitutional Courts are duty-bound to act to safeguard those who are vulnerable to exploitation, so that employees are not compelled to meekly submit to the demands of a vastly dominant contracting party like the State, but are instead assured that constitutional protections will intervene to prevent such exploitation.”

19. The Supreme Court in the case of **Jaggo (supra)** has observed in para 27 that 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.

20. Further, the Supreme Court in **Shripal (supra)** and **Bhola Nath (supra)** has directed for regularization of such employees by the employer.

21. In view of the law laid down by the Supreme Court in **Shripal (supra)**, **Bhola Nath (supra)** and **Jaggo (supra)**, the impugned order dated 24.12.2020 passed by respondent no. 3-Nagar Ayukt, Nagar Nigam, Bareilly is set aside and the claim for regularization of the petitioner be considered by the respondents in light of the law laid down by the Supreme Court in **Shripal (supra)**, **Bhola Nath (supra)** and **Jaggo (supra)**. The aforesaid exercise be completed by the respondent no 3 within four

months from the date of production of certified copy of the judgement. The respondents are directed to act in aid of the law laid by the Supreme Court in the above-mentioned cases.

22. Accordingly, the writ petition is **allowed**.

(Vikram D. Chauhan,J.)

March 17, 2026
VMA