



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 11th OF JULY, 2025

WRIT APPEAL No.729 of 2024

SUMITABH

Versus

AYUKT, NAGAR PALIKA NIGAM, UJJAIN

WITH

WRIT APPEAL No.739 of 2024

PANKAJ

Versus

AYUKT, NAGAR PALIKA NIGAM, UJJAIN

WRIT APPEAL No.740 of 2024

MANISHANKAR

Versus

AYUKT, NAGAR PALIKA NIGAM, UJJAIN

WRIT APPEAL No.741 of 2024

SANTOSH

Versus

AYUKT, NAGAR PALIKA NIGAM, UJJAIN

WRIT APPEAL No.742 of 2024

ARUN

Versus



AYUKT, NAGAR PALIKA NIGAM, UJJAIN

WRIT APPEAL No.744 of 2024

SANTOSH

Versus

AYUKT, NAGAR PALIKA NIGAM, UJJAIN

WRIT APPEAL No.745 of 2024

SURAJ

Versus

AYUKT, NAGAR PALIKA NIGAM, UJJAIN

WRIT APPEAL No.746 of 2024

NEERAJ

Versus

AYUKT, NAGAR PALIKA NIGAM, UJJAIN

WRIT APPEAL No.749 of 2024

DHARMENDRA

Versus

AYUKT, NAGAR PALIKA NIGAM, UJJAIN

WRIT APPEAL No.751 of 2024

MAHENDRA

Versus

AYUKT, NAGAR PALIKA NIGAM, UJJAIN

WRIT APPEAL No.755 of 2024

RAHUL

Versus

AYUKT, NAGAR PALIKA NIGAM, UJJAIN

Appearance:

Shri Mahesh Kumar Choudhary - Advocate for the appellants.



ORDER

Per: Justice Vivek Rusia

1. This order shall govern the disposal of Writ Appeal Nos.729/24, 739/24, 740/24, 741/24, 742/24, 744/24, 745/24, 746/24, 749/24, 751/24 & 755/24. Regard being had to the similitude of the controversy involved in the aforesaid appeals, they are heard analogously and disposed of by this common order.

2. Appellants have filed these appeal challenging the order dated 31.1.2024, whereby the Miscellaneous Petition filed by the Nagar Palika Nigam, Ujjain has been allowed and the order of Labour Court dated 1.7.2020 in Case No.148/2019/ID Act (Reference) has been set aside.

For convenience the facts are being taken from WA No.729/2024:-

3. Nagar Palika Nigam, Ujjain is a local body established under the M.P. Municipal Corporation Act, 1956. The appellant approached the Labour Court by way of reference that he was appointed on the post of Daily Wager on 10.3.2016 on fixed salary of Rs.5,500/- per month and after three years in the year 2019 by an oral order he was discontinued from the service without any notice and compensation. The Nagar Parishad did not follow the principle of last come first go. After discontinuing the service, other daily wagers have been appointed. The appellant had worked more than 240 days in one calendar year, therefore, he had acquired the status of permanent employee, hence termination amounts to retrenchment, hence without payment of compensation same is liable to be declared illegal.

4. The Nagar Parishad contested the dispute by submitting that the daily wagers were not directly appointed by the Nagar Parishad, in fact they



served through M/s Raj Security Force, Bhopal by way of an agreement. M/s Raj Security Force appointed them and deputed in the Nagar Palika under the outsourcing agreement, therefore, there was no employer-employee relation with him, hence the claim is liable to be dismissed. The learned labour court has discarded the aforesaid contention and held that the workman was directly appointed and paid by the Nagar Palika, hence the termination without payment of compensation is illegal and he is liable to be reinstated with full backwages. The similar nature of the award has been passed in case of other 11 workmen who filed the identical claim case. The Nagar Palika Nigam, Ujjain filed 17 miscellaneous petitions before this Court challenging the award.

5. After the notice in the petition, the Writ Court has allowed all the miscellaneous petitions on the ground that the Labour Court has not properly appreciated oral as well as documentary evidence that were produced on the record. Hence, the award passed in favour of the workmen is erroneous because merely payment of salary/wages from the bank account which is in the name of Municipal Corporation, does not bestow any right in favour of the workmen. The writ court has also observed that the appointment in the local bodies are governed under the M.P. Nagar Palika Nigam (Adhikariyon Evam Sevakon Ki Niyukti Evam Sewa Ki Sharten) Rules, 2000 and none of the appointments were made in accordance with the Rules. The workmen has not produced any evidence to show that they were appointed by following due process of law under Rules, 2000. Hence, set aside the award passed by the Labour Court. Now the workman has filed this writ appeal before this Court.



6. Shri Mahesh Kumar Choudhary, learned counsel appearing for the appellants submits that Nagar Parishad comes under the category of “Industry” under the Industrial Dispute Act, therefore, the principle of ID Act are liable to be considered in this matter and not the Recruitment Rules of 2000. From 2016 to 2019 the appellant worked for 240 days, therefore, got the status and protection of permanent employee. Hence, the Labour Court has rightly declared the termination illegal. It is further submitted that the Labour Court has rightly appreciated the evidence filed by the respondent and held that these workmen were not an employee of M/s Raj Security Force. The salary was paid by the Municipal Corporation, therefore, the employer-employee relation was established. In support of his contention, Shri Choudhary, learned counsel has placed reliance on the judgment in the case of *Naveen Singh Bhadoriya Vs. State of M.P. and others reported in 2010(4) MPLJ 212*, in the case of *Jasmer Singh Vs. State of Haryana and another reported in 2015(4) MPLJ 5* and in the case of *Anoop Sharma Vs. Executive Engineer, Public Health Division No.1, Panipat reported in 2010(4) MPLJ 39*.

We have heard the learned counsel for the parties and perused the record.

7. It is not in dispute that all these appellants were appointed as daily wager without following the due process of law and they worked only for 3 years. The Nagar Palika Nigam, Ujjain is a statutory body created under the statute. Separate recruitment rules have been framed to appoint any employee/servant in the Nigam. The ID Act nowhere provides procedure for appointment in industry. The private industries may appoint any workman



without advertisement but in the local bodies the appointment from backdoor is not permissible as per the law laid down by the Apex Court in the case of ***Secretary, State of Karnataka Vs. Uma Devi and others reported in AIR 2006 SC 1806***. Had it been a case of continuous working of the appellants for more than 10 years, they could have claimed the status of “permanent employee” under the Circular dated 6.10.2017. Before 2000 Rules, as quoted by writ court, also there was a rule called The Madhya Pradesh Municipal Employees (Recruitment and Conditions of Service) Rules, 1968, in which also the appointment of Class-3 and Class-4 employees used to be made by way of direct recruitment, by way of promotion or by way of transfer/deputation. There is a provision of reservation of vacancy for Scheduled Caste and Scheduled Tribe under Rule 5A. Age and academic qualification, eligibility are provided under Rule 6, 7 & 8. Therefore, in case of appointment of daily rated employees from back door without following the procedure prescribed in the rules and later on claiming the status of permanent employee, would adversely affect the recruitment, reservation etc. under the rules and the post and work in the Nigam are limited. The judgments on which the appellants have placed reliance, are all the judgments passed prior to the judgment passed by the Apex Court in the case of ***Uma Devi and others*** (supra), in which the Apex Court has deprecated the appointment of daily wage de hors the Rules in Government as well as in local bodies. Thereafter the State Government framed the policy dated 6.10.2017 for regularization of those daily wage who have been continuously working since last more than 10 years. Therefore, the appellants does not fall into that category.



8. Although the respondent-Nigam has produced the agreement by which supply of manpower was given to the outsourcing agency M/s Raj Security Force. The Labour Court has discarded the agreement only on the ground that the payment of wages were made by Nagar Parishad to the appellant-workman directly. Sometimes the local body directly make payment to the workman to ensure that the full salary or wages is paid to them without any deduction by the outsourcing agency. Therefore, the writ court has rightly observed that merely payment was made, will not establish the employer-employee relationship.

9. In view of the above, the writ appeals are **dismissed**.

10. Signed order be kept in the file of WA No.729/2024 and a copy thereof be placed in the file of WA No.739/24, 740/24, 741/24, 742/24, 744/24, 745/24, 746/24, 749/24, 751/24 & 755/24.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE