IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:-
The Hon'ble Justice Madhuresh Prasad
And
The Hon'ble Justice Prasenjit Biswas

W.P.S.T. 121 of 2025

Smt. Debasree Polley @ Koley & Ors.
Vs.
The State of West Bengal & Ors.

With

W.P.S.T. 122 of 2025

Biplab Ketan Ghatak & Ors.
Vs.
The State of West Bengal & Ors.

For the Petitioners :Mr. Bikash Ranjan Bhattacharyya, Ld. Sr. Adv.
Mr. Dibyendu Chatterjee,
Ms. Satabdi Das,
Mr. Mainak Singha Barua,

For the State : Mr. D. N. Ray, Ld. G.P.,
Mr. Sahasrangshu Bhattacharya, Ld. AGP,
Ms. Marry Datta,

For the P.S.C.W.B. : Ms. Shraboni Sarkar,
Ms. Umme habiba Khatun,

Heard on : 04.08.2026

Judgment on : 15.10.2026

Madhuresh Prasad, J.:

1. The writ petitioners were the applicants before the West Bengal Administrative Tribunal (for short *"Tribunal"*). They filed the original application being OA No.490 of 2021, seeking relief in the form of

direction upon the respondent authorities to regularize their engagement on the post of lecturer in the polytechnic.

2. The Tribunal found that the applicants were serving on the post of lecturer on ad hoc basis since 2009. They put in a major part of their life in this *ad hoc* service. The Tribunal also recorded that it is undesirable that the post of lecturers in Government Polytechnic Colleges continues to be occupied on ad hoc basis. The Tribunal thus directed:

> *"Therefore, a direction is given to the Respondent No. 2, the, Secretary now re-designated, as the. Additional Chief Secretary, Department of Technical Education and Training to initiate concrete steps in filling the vacant posts of lecturers either through absorption of these contractual lecturers or through fresh, recruitment process. Such steps shall be initiated within three (03) months from the date of communication of this order. With this direction, this application is disposed of".*

3. Being aggrieved by the order of the Tribunal, in as much as it did not allow the petitioner's claim for regularization, the writ petition was filed, for setting aside the order dated 04.04.2025 passed by the Tribunal in the original application. The writ petitioners also sought direction upon the respondents to absorb them on the posts on which they are serving as permanent employees. They sought a direction restraining the respondent no.2 (The Secretary) Department of Technical Education Training and Skill Development from initiating any fresh selection process.

4. The brief factual background, in the two writ petitions arise from one advertisement published in the newspaper, whereby and whereunder desirous candidates were invited to participate in the walk-in interview to be conducted for engagement of lecturers in government polytechnics, (on purely contract basis).

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5. The advertisement was dated 08.11.2007. The successful candidates were to be engaged on a consolidated remuneration, initially for six months. The writ petitioners applied in response to the advertisement. They emerged successful in the walk-in interview and were initially engaged in between 2008-2009, for a period of six months. Thereafter, they were successively re-engagement on contractual basis. As such they rendered service as contractual lecturers in the government polytechnics till December, 2021.

6. The writ petitioners thus, moved the secretary of the department through their learned Advocate by way of a representation requesting the Secretary to regularize their service. The representation in this regard was submitted on 25.02.2021.

7. The Government, however, considered revision of service conditions, including revision of remuneration of the contractual lecturers in government polytechnics. On careful consideration of the matter the government in the Finance Department decided to enhance the remuneration of the *ad-hoc* lecturers, including the present petitioners. The government thus, issued an order dated 26.02.2021

which allowed certain other benefits also to the *ad-hoc* lecturers, including:

(i) Continuation of their contractual engagement up to the age of 60 years.

(ii)Grant of terminal benefit Rs.3 lakh on attainment of age of 60 years,

(iii) Annual enhancement of remuneration at the rate of 3 per cent, subject to assessment of their performance.

8. The enhancement of remuneration was to be granted to the petitioners having regard to a fact whether they were having qualifications at par with AICTE norms, or not. Grant of such benefit was contemplated with effect from 01.03.2021. The Government, however, did not allow the petitioner's claim for absorption/ regularization.

9. The petitioners under such circumstances moved the Tribunal by filing OA 490 of 2021. After the exchange of pleadings before the Tribunal and considering the stand of the parties, the same was disposed of by the order which is impugned in the present writ proceeding.

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10. Insofar as the second writ petition arising out of OA No.495 of 2021 is concerned, we found that there are minor distinctions in the facts. The advertisement inviting applications for contractual engagement is

dated 27.05.2008 instead of 08.11.2007. The joining of the writ petitioners was between the years 2008-2009.

11. However, the petitioners in this case also continued till February, 2021. They also filed their OA on the same date as the writ petitioners in the first writ petition. The order dated 26.02.2021 issued by the government giving enhanced remuneration and other benefits is also common to the writ petitioner in both the cases.

12. Therefore, the facts and circumstances falling for consideration in both the cases are substantially one and the same, having insignificant distinction. The writ petitions were therefore, considered together. The learned Advocate representing the writ petitioners and respondents have also made submissions common to both the writ petitions, without reference to the insignificant distinction.

13. The common issue therefore arising for consideration is whether the writ petitioners had an enforceable claim for issuance of directions by the Tribunal to regularize their service.

14. The learned Senior Advocate for the applicant/writ petitioner submitted that the petitioner's initial engagement on contract basis was preceded by an advertisement in the newspaper. The advertisement specified qualifications for the engagement in question which were at par with the qualification specified for appointment of regular lecturer. The engagement was done against vacant sanctioned posts. He further submitted that the authorities renewed the contract successively for more than 10 years. With a view to deprive the

petitioners an opportunity to claim benefits attached to continuity of contractual engagement, the authorities deliberately renewed the successive contracts after gap of 3 to 4 days. Therefore, the petitioners are in a position to claim that they have served on contractual basis as lecturers against sanctioned posts for a period of more than 10 years. Since they were qualified for regular appointment to the post of lecturer, the petitioners were entitled to regularization/absorption of their service.

15. The learned Senior Advocate, in order to substantiate his submission regarding the posts being sanctioned, relied upon averments made in the rejoinder to the reply filed by the State respondents before the Tribunal. He relied upon a communication dated 09.07.2008 issued by the Principal of Dr. Meghnad Saha Institute of Technology to the Director of Technical Education and Training. The communication is in respect of one Shri Tarun Kumar Changdar, similarly engaged as the present petitioners. One information given under the Right to Information Act by the principal of the Contai polytechnic which is dated 31.08.2022, is relied upon in this regard in WPST 122 of 2025. The information relates to queries made under Right to Information Act by one Sri Subrata Bandyopadhyay who is also not a writ petitioner before this court.

16. Insofar as the requisite qualification for recruitment of regular lecturers in the polytechnics the learned Senior Advocate for the writ petitioners relied upon the "*All India Council for Technical Education (Pay Scales Service Conditions and Qualifications For the Teachers and*

Other Academic Staff In Technical Institutions (diploma)), Regulation, 2010". And AICTE Regulations on pay scales namely: "*The All India Council for Technical Education Pay Scales, Service Conditions and Minimum Qualifications for the Appointment of Teachers and other Academic Staff such as Library and Physical Education Personnel in Technical Institutions and Measures for the Maintenance of Standards in Technical Education- (Diploma) Regulation, 2019.*

17. It is thus, submitted that in terms of the decision of the Hon'ble Supreme Court of India in the case of ***Secretary, State of Karnataka & Ors., vs. Umadevi (3) & Ors.***[1]. The writ petitioners were fulfilling all the requisites for being considered for regularization.

18. Learned Senior Advocate for the writ petitioner further submitted that the writ petitioners were performing an essential function in the Polytechnics by imparting education, which is intrinsic to the functioning of the polytechnics. They have rendered such service continuously for a decade. The authorities have taken advantage of their services for more than a decade. They have invested their prime part of their life to sustain the activities of the polytechnics, which otherwise could not continue with imparting education. The authorities having taken advantage of the services rendered by the writ petitioners for such a long time were obliged to consider the petitioner for regularization. The authorities were also required to consider that the writ petitioners were discharging their duties at par with regular lecturers. They were being assigned work other than

[1] (2006) 4 SCC 1

teaching such as performing the duties of head of department and internal coordinator. They were also required to discharge the duties of training and placement officer. Such submissions are supported by orders to this effect dated 12.06.2017, 26.07.2016 and 20.02.2013 respectively enclosed with the writ petition. Such long term extraction of regular work under a temporary label according to the learned Advocate for the petitioner offends the promise of equal protection and corrodes the confidence in public administration.

19. It is further submitted that such "*ad-hocism*" thrives where administration is opaque. The state cannot prefer such precarious engagement on sanctioned posts where the work is perennial. In support of such submission the learned Sr. advocate for the writ petitioner relied upon decisions of the Hon'ble Supreme Court in the case of (1) ***Dharam Singh & Ors. vs. State of U.P. & Ors.,***[2] *(2)* ***U.P Junior High School Council Instructor Welfare Association vs. State of UP and Ors.,***[3] and *(3)* ***Jaggo vs. Union of India and ors.***[4]**.** Thus, it is submitted that the writ petitioners in view of the facts and circumstances above were entitled to benefit of the law as laid down by these judgments, favouring regularization of such employees.

20. The learned advocate for the State respondent, on the other hand submitted that the Notification for engagement of contractual lecturers in response to which the petitioners applied; as well as order of individual engagement of the writ petitioners leave no doubt that

[2] 2025 SCC OnLine SC 1735
[3] (2026) 5 SCC 321
[4] (2024) SCC Online SC 3826

the engagement was made purely on contractual basis. The service was liable to automatic termination after expiry of the period of contract. The engagement order stipulated that engagement will not confer any right to claim regular appointment/absorption against a regular post. The applicants in explicit acknowledgement of such stipulation executed written undertaking that the engagement will not confer any right; and that they will not claim regular appointment/absorption. The engagement was for six months, being the duration of a semester.

21. The post of lecturers of the different disciplines can be filled up only in accordance with rules of recruitment issued in exercise of power conferred upon the Government by the proviso to Article 309 of the Constitution of India. The recruitment rules were notified by the Department of Technical Education and Training (Polytechnics Branch), by Gazette Notification dated 21.11.2012. The recruitment rules contemplate recruitment through the PSC. In fact, the Public Service Commission, West Bengal (hereinafter in short referred to as the PSC) initiated a process for recruitment on the vacancy of lecturers in the various disciplines of polytechnics by publication of Advertisement No. 24/2018. He referred to the decision of the Constitution Bench of the Hon'ble apex Court in the case of ***Uma Devi*** (*supra*). He submitted that the decision of the Constitution Bench in the case of ***Uma Devi*** (*supra*) holds the field in so far as a claim for regularization is concerned. Unless petitioners are in a position to show that they fulfill the requisites as per paragraph 53 of the

decision in the case of ***Uma Devi*** (*supra*) there is no scope for the petitioner to assert a claim for regularization. The learned Government Pleader also relied upon decision of this Court in the case of ***Smt. Nupur Basu v. Union of India***[5] and the copy of the Judgment dated 17.12.2025 is handed over to the Court.

22. The learned G.P. also relied upon decision of the coordinate Bench of this Court in the case of ***Sirshendu Ghosh v. State of West Bengal & Ors.,***[6]**.** Copy of the judgment dated 22.12.2021 is handed over to this Court. The division bench took note of facts which are common to the present case such as the fact that all the writ petitioners have been placed in a consolidated monthly pay revised to 35,000/- from 14, 890, subject to enhancement at the rate of 3 per cent every year based on performance report. They have also been provided terminal benefits of Rs. 3 lacs on attaining the age of superannuation (60 years). The Division Bench thus found that the contractual lecturers in the Polytechnics draw the minimum pay of the pay band of Rs. 15,600-39-39,100 with AGP of RS. 5,000 meant for the regular lecturers of polytechnics. The Division Bench considered the parity in pay of the contractual lecturers vis-à-vis the regular lecturers and found no reason to grant any further benefit to writ petitioners. Therefore, the petitioners were rightly not granted any relief by the Tribunal.

23. The learned Senior Advocate further laid emphasis on the

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[5] MAT 1066 of 2025
[6] (WPST) 107 of 2016

recruitment process undertaken for filling up posts in the polytechnics by Advertisement No. 24/2018, under the recruitment Rules of 2012. Despite opportunity in this regard there is no material on record to suggest that the writ petitioners participated in the recruitment process. In the present case the authorities did not prefer a precarious contractual employment over regular appointments. In fact, process for regular appointment to the post was initiated vide Advertisement No.24/2018. It was, therefore, open to the petitioners to avail the opportunity to become regular employees, but they did not do so. Therefore, it is submitted by the learned G.P that the facts of the present case are at variance with the facts arising for consideration in the decisions of the Supreme Court in the case of ***Dharam Singh*** (*supra*), ***U.P. Junior School Welfare Association*** (*supra*) and ***Jaggo*** (*supra*).

24. The learned GP further submitted that very recent decision of the Hon'ble Supreme Court of India in the case of ***Najma Khatun v. The State of West Bengal & Ors.***[7], has reiterated the law as laid down by the Constitution Bench in the case of ***Uma Devi*** (*supra*). The writ petitioners did not fulfill the requisites for consideration for regularization of this service. It is therefore, submitted that the Tribunal rightly rejected the petitioners' claim for regularization. The order of the Tribunal dated 04.04.2025 in OA No. 490 of 2026, does not merit any interference.

25. Upon consideration of rival submissions made by learned Counsel

[7] 2026 SCC OnLine SC 1313

for the parties, the undisputed facts emerged that the petitioners' recruitment on contractual basis was preceded by an Advertisement for such recruitment wherein there was prescription of qualification for recruitment of lecturers in the polytechnics. However, we find that the advertisement does not indicate that the contractual engagement was being done on or against sanctioned posts. There is no dispute that writ petitioners' contractual engagements were extended from time to time, subject to undertaking given by the petitioners that the engagement is purely contractual and that they shall not claim any benefit of regularization/absorption.

26. It is also not in dispute that the recruitment rules for appointment of regular lecturers was notified on 21.11.2012. Thereafter recruitment process was also initiated by the PSC in the year 2018 by Advertisement No. 24 of 2018. There is nothing on record to suggest that the petitioners applied/participated in the recruitment process pursuant to Advertisement No. 24 of 2018. There is also no dispute that the petitioners' consolidated pay was revised placing them in the minimum pay scale for lecturers in Polytechnics with other benefits such as annual increment at the rate of 3 per cent subject to performance of result. They were also allowed terminal benefits at Rs. 3 lacs upon attaining the age of superannuation. The petitioners have thus been granted those benefits along with a security tenure till the age of 60 years.

27. Under such circumstances we find that the petitioners' claim is squarely covered by a decision of the coordinate bench in the case of

Sirshendu Ghosh (*supra*). While considering the case of ***Sirshendu Ghosh*** (*supra*) the coordinate bench also considered their rights with reference to decisions of the Constitution Bench of the Hon'ble Supreme Court of India in the case of ***Uma Devi*** (*supra*). The coordinate bench still did not find any sustainable claim for regularization being made by the petitioners therein. We are of the view that the case of the present petitioners was covered by the decisions of the coordinate bench in the case of ***Sirishendu Ghosh*** (*supra*). The communications dated 31.08.2022 and information 09.07.2008 under RTI relied upon in WPST 121 of 2025 and WPST 122 of 2025 respectively to sustain a plea that the petitioners were appointed against sanctioned post is untenable. The communication dated 31.08.2022 and the information dated 09.07.2008 under RTI are in respect of appointment of Mr. Tarun Kumar Changdar and information sought by one Subrata Bandyopadhyay under R.T.I. The communications did not state anything as regards the posts against which the present petitioners were appointed on contract basis. Therefore, these documents do not support the writ petitioners pleas that they were appointed against sanctioned posts. The petitioners, therefore, did not fulfill the requisite criteria mentioned in paragraph 53 of the Constitution Bench Decision of the Hon'ble Supreme Court in the case of ***Uma Devi*** (*supra*).

28. ***Uma Devi*** (*supra*) case was subsequently considered by the Hon'ble Supreme Court of India in the case of ***State of Karnataka v. M.L.***

Kesari[8] The relevant extract of the decision of the apex Court is as follows:

> ***"7.*** *It is evident from the above that there is an exception to the general principles against "regularisation" enunciated in Umadevi (3) [(2006) 4 SCC 1] , if the following conditions are fulfilled:*
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> *(i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years.*
>
> *(ii) The appointment of such employee should not be illegal, even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive selection, such appointments are considered to be irregular.*
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> ***10.*** *At the end of six months from the date of decision in Umadevi (3) [(2006) 4 SCC 1] , cases of several daily-wage/ad hoc/casual employees were still pending before courts. Consequently, several departments and instrumentalities did not commence the one-time regularisation process. On the other hand, some government departments or instrumentalities undertook the one-time exercise excluding several employees from consideration either on the ground that their cases were pending in courts or due to sheer oversight. In such circumstances, the employees who were entitled to be considered in terms of para 53 of the decision in Umadevi (3) [(2006) 4 SCC 1] , will not lose their right to be considered for regularisation, merely because the one-time exercise was completed without considering their cases, or because the six-month period mentioned in para 53 of Umadevi (3) [(2006) 4 SCC 1] has expired. The one-time exercise should consider all daily-wage/ad hoc/casual employees who had put in 10 years of continuous service as on 10-4-2006 without availing the protection of any interim orders of courts or tribunals. If any employer had held the one-time exercise in terms of para 53 of Umadevi (3) [(2006) 4 SCC 1] , but did not consider the cases of some employees who were entitled to the benefit of para 53 of Umadevi (3) [(2006) 4 SCC 1] , the employer concerned should consider their cases also, as a continuation of the one-time exercise. The one-time exercise will be concluded only when all the employees who are entitled to be considered in terms of para 53 of Umadevi (3) [(2006) 4 SCC 1] , are so considered."*

29. We already found that the petitioners herein were not appointed against sanctioned post. They also did not complete 10 years of

[8] (2010) 9 SCC 247

continuous service as on 10.04.2006 as contemplated in the ***M.L Kesari*** (*supra*).

30. Insofar as the decision of the apex Court in the case of ***Jaggo*** (supra) is concerned we find that the appellants therein were working on Group D posts and discharging their duties since 1993 to 2004. They were all abruptly terminated in the year 2018. The apex Court found their abrupt termination to be arbitrary and devoid of any justification. Their termination was held to be in violation of principle of natural justice. The apex Court further took notice of the conduct of the respondent therein by issuing tenders for outsourcing the same task, during pendency of the judicial proceedings despite stay order directing maintenance of status quo. The apex Court thus found the action of the employer to be lacking in *bona fides,* in contravention of judicial directives and highlighting the respondents' unwillingness to acknowledge the appellants' rights. The appellants also established a fact that individuals with lesser tenure of comparable roles were regularized by the respondent. It is under such circumstances the apex Court held the appellants therein to be entitled to relief of setting aside of their termination orders and that they be taken back in duty forthwith by regularizing their services. The facts of that case are at stark variance with the facts of the petitioners herein taken note of above. The petitioners, therefore are not in a position to claim benefit of decision of the apex court in the case of ***Jaggo*** *(supra).*

31. In the case of ***Dharam Singh*** (*supra*) the appellant therein were engaged by the Uttar Pradesh Higher Education Service Commission

between 1989 and 1999. They were discharging ministerial and support function in the organization. The commission resolved to create posts and sought sanction from the State Government. The State, in turn, asked for details of the daily wage hands working in the organization. The commission thereafter reiterated its requests for sanction for the posts on which the appellants therein were discharging *ad hoc* duties. The State rejected the proposal which was questioned by the appellants. They filed Writ Petition before the High Court, wherein they sought relief of quashing of the State's order dated 11.11.1999, rejecting the proposal for sanction of posts. They also sought directions in the nature of a writ of mandamus to sanction/create posts. No such issue arose for consideration in the present case. In the present case the petitioners accepted their successive contractual engagements which was not made against sanctioned post, with explicit stipulation that the same will not entitle them to any benefits of absorption /regularization. The petitioners' case therefore, is factually distinguishable from the case of ***Dharam Singh*** (*supra*). Therefore, they cannot claim any benefit from the judgment.

32. In so far as the case of ***U.P. Junior High School Council Instructors Welfare Association*** *(Supra).* we find that the Instructors/Teachers were contractually engaged. The authorities continued to take work from them on fixed honorarium at Rs. 7,000/- per month. The authorities had recommended for enhancement of their honorarium. On refusal to grant enhancement the appellants

therein invoked writ jurisdiction. The Single Bench of the High Court directed for payment at enhanced rate which was assailed before the Division Bench which directed the State Government to pay honorarium at the enhanced rate per months but only for the year 2017-18.

33. Since the petitioners were deprived of their payment for the period after 2017-18 they approached the Apex Court. The Apex Court took notice of the various proposals made by the State Government to the Project Approval Board for enhancement of honorarium payable to the Instructors/Teachers. The decision of the Additional Chief Secretary accepting such proposal was also considered by the apex Court Thereafter, the Apex Court took notice of the fact that despite such decision necessary funds were not released and the amount of honorarium was decreased by the Executive Committee of the Shiksha Pariyojna Parishad of the State. The Apex Court in the said case also considered that appointment of the Instructors/Teachers was with a condition that they would not directly or indirectly take up any part time appointment or whole-time job anywhere else. The apex court thus, was of the view that the moment the Government prohibits the instructors/teachers from taking up any part-time or whole-time job anywhere else, they have to be treated as full time teachers. No such facts arise for consideration in the present case and the present case is distinguishable with the facts which arose for consideration in the case of ***UP Junior School Council*** (*supra*).

34. We therefore, find no force in the claim set out by the writ

petitioners. On the contrary we find the petitioners' case covered by a decision of the coordinate Bench in the case of ***Sirshendu Ghosh*** (*supra*).

35. The judgment of the Hon'ble Apex Court in the case of ***Najma Khatun*** (*supra*) reiterated the law laid down by the Constitution Bench of the Hon'ble Supreme Court in the case of ***Uma Devi*** (supra) in the following terms:

> *"31……d). We find no merit in such prayer. First, this petitioner has not claimed the relief of regularisation in the writ petition. Grant of relief beyond the prayer clauses, though normally impermissible, could be considered in exceptional cases. This does not qualify to be an exceptional case warranting departure from the settled rule of "no prayer, no relief". Secondly, the question of regularisation in service does not arise in this case because of the nature of breach that has occasioned. This Court in Jaggo (supra) and even in the most recent decision in Sukhendu Bhattacharjee (supra) might have taken a liberal view but such views have to be read as confined to its own facts rather than laying down law which is binding under Article 141 of the Constitution. State of Karnataka v. Umadevi (3) and Official Liquidator v. Dayanand are larger Bench decisions of this Court. The ratio laid down therein has neither been doubted nor diluted by any Bench of co-equal strength. The principle of stare decisis and Article 141 of the Constitution leaves us with no choice. Article 141 commands and the law declared in Umadevi (supra) and Dayanand (supra) binds all. Ratio, if any, laid down in the said decisions of Benches of lesser strength is debatable and we are not persuaded to follow the same…"*

We already found that the petitioners failed to make out a case based on facts so as to claim any benefit of regularization in terms of paragraph 53 of the judgment, ***Uma Devi*** (*supra*).

36. The writ petitioners therefore, in our opinion could not make out a case for regularization/absorption before the Tribunal. The Tribunal therefore in our opinion rightly rejected the writ petitioners' claim for regularization. The order of the Tribunal requires no interference in exercise of judicial review under Article 226 of the Constitution of India.

37. Both the writ petitions are dismissed.

38. Urgent certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Madhuresh Prasad, J.)

I agree.

(Prasenjit Biswas, J.)