



\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

*Reserved on: 26 May 2026**Pronounced on: 8 September 2026*

#

CNR No: DLHC011805892018

+

W.P.(C) 7973/2018

UNION OF INDIA AND ORS.

.....Petitioners

Through: Mr. Mukul Singh, CGSC with
Mr. Aryan Dhaka, Adv.

versus

MITHAI LAL AND ORS.

.....Respondents

Through: Mr. Ambhoj Kumar Sinha,
Adv.

#

CNR No: DLHC011805842018

+

W.P.(C) 8018/2018

UNION OF INDIA AND ORS.

.....Petitioners

Through: Ms. Pratima N Lakra, CGSC
with Mr. Shailendra Kumar Mishra and Ms.
Upanita Soumyadarshini, Adv.

versus

RAM BARAN AND ORS.

.....Respondents

Through: Mr. Ambhoj Kumar Sinha,
Adv.**CORAM:****HON'BLE MR. JUSTICE C. HARI SHANKAR****HON'BLE MR. JUSTICE OM PRAKASH SHUKLA**

%

JUDGMENT**08.09.2026**



C. HARI SHANKAR, J.

1. These writ petitions, at the instance of the Ministry of Railways¹, assail judgment dated 7 November 2016 passed by the Central Administrative Tribunal² in OA 4140/2013³ and OA 173/2014⁴. The respondents in these writ petitions were the applicants in the OAs.

2. The respondents were working as bearers/vendors in the North Eastern Railway on commission basis. They seek regularisation on the said posts.

3. On 13 December 1976, the Railway Board issued the following Circular to all General Managers in the Railways, with respect to absorption of bearers/vendors who were employed with the Railways on commission basis:

“GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS

(Railway Board)

No. 76-P/III/639/11 New Delhi, December 13, 1976

The General Managers
All Indian Railways

Sub: Bearers/Vendors/purely on commission basis.

In this connection attention is drawn to the D.O Letter No. 73-TG/III/639/8 SG dated 16.2.74 from Director Traffic (Commission) Railway Board to the CCS of all the Rlys. (excepting Southern Rly.). In para 2 of the D.O. letter, it was suggested that the cases of the Commission bearers and vendors

¹ “Railways” hereinafter

² “the Tribunal” hereinafter

³ **Mithai Lal & Ors. v. Union of India**

⁴ **Ram Baran & Ors. v. Union of India**



should be registered in order of length of their service for their future absorption in various deptt. Catering units to afford them an avenue for absorption in the permanent cadre. It was also suggested in the said D.O. letter that if there are casual labours/substitutes to be considered for regular. It is presumed that the Southern Rlys. also have adopted the aforesaid procedure, if not this may be adopted by them with immediate effect.

In view of frequent representations from Commission Bearers and Commission Vendors for regularisation of their services on the Railways. This ministry desires this action should be taken on the lines indicated above to absorb progressively the Commission Bearers and Vendors in regular vacancies.

Sd/- B.B. Srivastava
Jt. Director Traffic Comml.
G.I. Rly Board.”

4. The issue of regularisation of vendors and bearers working with the Railways on commission basis was also raised before the Supreme Court in Writ Petition (Civil) 1568/1986⁵. The following orders, passed by the Supreme Court, in the said writ petition, are of relevance:

Order dated 20 April 1987

“ORDER

The process of regularisation which the respondents over to have been taken over, should be completed within a period of four months from today and the petitioners vendors will be absorbed in accordance with the rules. After regularisation, they will be paid similar salary to which they are entitled to. The Writ petition is disposed of with these directions.”

(Emphasis supplied)

Order dated 26 July 1988

“ORDER

The petitioners allege that they are working as Commission vendors their regularisation and absorption as contemplated by the order of this Court on 20th April 1987. Such a scheme must be

⁵ Mahesh v. Union of India and others



taking into consideration the reality of the situation. The matter will be listed on 25th August 1988. In the meantime, present position will continue.”

Order dated 25 August 1987

“ORDER

Having considered the facts and the circumstances of this case and in view of the averments on behalf of the respondents, we are of the opinion that *the respondents should implement the directions given in the Memorandum dated 13th December, 1976*, which the respondents state that they are trying to do as best as they can.

Directions.

Let the memorandum be implemented in accordance with the directions contained thereunder.

The Civil Miscellaneous Petition is disposed of accordingly.”
(Emphasis supplied)

5. Despite the above directions of the Supreme Court, no substantial progress took place with respect to absorption/regularisation of vendors and bearers working on commission basis with the Railways. The matter was again taken up before the Supreme Court in WP (C) 196/1995⁶, in which the Supreme Court passed the following order on 3 December 1997:

“ORDER

Despite directions given as far back as on 22nd April, 1997, as to when and by what time the Commission vendors and Commission bearers working in the South Eastern Railway are likely to be absorbed pursuant to the direction given earlier by this Court, no such intimation could be given to this Court. An interim direction was given by this Court that such workers would be paid ₹ 1,500/- (Rs. Fifteen hundred) per month by way of interim relief because it was reasonably expected at that time that the concerned workers would : be absorbed without much delay. Our attention has been drawn by Ms. Shyamla Pappu, the learned senior Counsel for the Petitioner that in the case of similar workers in Southern railway,

⁶ South Eastern Railway Congress & Ors v. The Chairman, Railway Board



the Railway Board by the memo No. 88/T.G.III/648/19/PNH Meeting, dated 10.2.1989 directed that such Commission vendors until they would not be absorbed permanently would be paid at the minimum of revised scale then in force and such interim relief would also include and also the Dearness allowances. The learned counsel has submitted that similar direction may be passed in favour of the Commission vendors and Commission agents represented by the petitioners.

In our view, in the facts of this case, there is justification in the said submission. We, therefore, direct that till such Commission vendors and Commission bearers of South Eastern Railway who are now getting Rs.1,500/- per month, are not absorbed against the available vacancies, they will be paid the minimum of the revised scale of pay on the basis of Fifth Pay Commission's recommendations together with Dearness allowances and other allowances and also the House rent allowance which would have been payable on permanent absorption but no increment should be given to them until they are regularly absorbed against available vacancies.

The Writ Petition stands disposed of.”

6. After the above pronouncement of the Supreme Court, the issue of regularisation of commission vendors/bearers in the Railways again cropped up before the Principal Bench of the Tribunal in OA 1768/1999, which was disposed of, by the Tribunal, by the following order dated 14 November 2000:

“In the present OA the applicants who were petitioners in Writ Petition (c) No. 523/1997 filed before the Hon’ble Supreme Court are seeking directions to the respondents to treat them as regular Commission Vendors and Commission Bearers.

2. The learned counsel for the respondents has no objection to dispose of the OA by giving directions as given by the Hon’ble Supreme Court in Writ Petition (c) No. 196 of 1995 dated 3.12.97 filed by similarly placed persons. In view of this, we dispose of the present OA with the directions to the respondents that till the applicants are not absorbed against the available vacancies, they will be paid the minimum of the revised scale of pay on the basis of Fifth Pay Commission's recommendations together with DA and other allowances and HRA which would have been payable on permanent absorption but no increment should be given to them



until they are regularly absorbed against available vacancies. There shall be no order as to costs.”

7. On 1 December 2005, the Railway Board issued a further Circular, from which the following paragraphs are of some relevance:

“The absorption of Commission Vendors/Bearers was discussed in the Board Meeting held on 16th November, 2005 and the Board have taken the following decisions:-

(i) All Commission Vendors/Bearers should be regularized with complete relaxation of educational qualifications instead of ability to read and write. However, nor more than 2 opportunities should be given to an individual for such regularization. Such individuals who do not avail the maximum permissible 2 opportunities should be treated as not interested' and should be debarred.

(ii) All Commission. Vendors/Bearers should retire at an age of 60 years.

(iii) In case of those Commission Vendors/Bearers who are absorbed as Group 'D' staff on the Railways, direct compassionate appointment to their widow/ward will be permissible as per the extant rules in case of their death or medical incapacitation before their retirement.

You are requested to absorb the Commission Vendors/Bearers immediately on the above guidelines.

Action taken report on the above may kindly be furnished at the earliest for approval of Board.”

8. The respondents again approached the Tribunal by way of OA 4140/2013 and OA 173/2014, seeking regularization, in which the presently impugned judgment has been rendered by the Tribunal on 7 November 2016.

9. The Tribunal has allowed the OA in the following terms:

“14. The matter is simple. The Hon'ble Supreme Court had



directed the respondents for regularisation of the applicants like similarly placed persons. Vide their order of 1991, some benefits were, in fact, granted by the respondents. However, despite the scheme of 1976, no steps were taken for regularisation even after the respondents themselves issued circular to that effect in 2005, In. the interregnum, the Tribunal in O.A. No.1768/1999 and the Hon'ble Supreme Court in W.P. (C) No.196/1995 had directed the respondents to grant pay at the minimum of the pay in the revised pay scale of similar Group 'D' employees in the Railways along with other allowances, such as, HRA, Dearness Allowance etc. The respondents neither regularised the employees nor implemented the order of the Hon'ble Supreme Court by granting them the minimum of the pay scale and allowances.. The only ground taken by the respondents is that there is delay and their M.A. was dismissed by the Tribunal on this ground.

15. In my opinion, these are frivolous grounds in such a serious matter because if the Hon'ble Supreme Court's directions are not implemented and the Railway Administration, after having issued two circulars of 1976 and 2005, are not even ready to implement their own circulars, the situation can only be described as shocking, as it indicates that administration has completely collapsed. There is no doubt that the applicants are very poor people and have spent considerable amount of money running from pillar to post to get their dues, as granted by the Hon'ble Supreme Court and as per the respondents' own policy.

16. Both the OAs are, therefore, allowed. The respondents are directed to regularise the services of all the applicants in both the OAs within a period of 90 days from the date of receipt of a certified copy of this order. They are also directed to pay the minimum of the pay scale along with allowances, as stated above, from the date of the order of this Tribunal, i.e. 14.11.2000.

Since the applicants had to spend a lot of money in agitating these cases over the years, a cost of Rs. 1 lakh (Rupees one lakh only) is imposed on the respondents to be paid to the applicants, within the above stipulated period.”

10. The Union of India moved the Tribunal by way of RA 45/2017, seeking review of the judgment dated 7 November 2016. By order dated 13 February 2017, the RA was dismissed on the ground that there was no error apparent on the face of the record of the order dated 7 November 2016 and no other ground, meriting review of the said



decision, existed.

11. Aggrieved by the aforesaid decisions of the Tribunal, the Union of India has approached this Court by means of the present writ petitions.

12. We have heard Mr. Mukul Singh, learned CGSC for the Union of India in WP (C) 7973/2018 and Ms. Pratima N Lakra, learned CGSC for the Union of India in WP (C) 8018/2018 as well as Mr. Ambhoj Kumar Sinha, learned Counsel for the respondents at length.

13. Learned Counsel have also filed written submissions.

14. Learned CGSCs for the Union of India submit that those commission bearers/vendors who were eligible for regularisation in terms of the Railway Board order dated 1 December 2005 have been regularised. However, those who were screened and were not found eligible could not be regularised, which include the respondents before us, according to the learned CGSCs, cannot seek any right to regularisation.

15. It is also submitted that several of the respondents have been screened and regularised.

16. Responding to the submission of learned CGSC, Mr. Sinha, learned Counsel for the respondents, submits that the issue of entitlement of the respondents to regularisation stands settled up to the Supreme Court and, therefore, it cannot lie in the mouth of the Union



of India to dispute their right in any way.

17. Having heard learned Counsel for the parties and examined the matter from all its angle, we are of the view that the impugned judgment of the Tribunal is unexceptionable, and calls for no interference.

18. We deem it appropriate to state, at the outset, that it is a matter of deep regret that low paid Group-D employees, working as bearers and vendors, are having to litigate for decades in order to secure their just entitlements, despite the directions issued by the Supreme Court on more than one occasion.

19. The sequence of events outlined earlier in this judgment, and a reading of the orders passed by the Supreme Court, leave no manner of doubt that all commission bearers and vendors, who were in service on the date when the Supreme Court passed its judgment in *Mahesh* and *South Eastern Railway Congress*, were entitled to regularization in terms of the Railway Board's Circular dated 13 December 1976.

20. It is not disputed, before us, that all the respondents would fall within this category. There is no question, therefore, of the Railways having thereafter resorted to any process of screening so as to eliminate some, or even any, of the respondents from regularization.

21. We also draw sustenance, for our view, from the recent pronouncements of the Supreme Court in *Jaggo v. Union of India*⁷,

⁷ 2024 SCC Online SC 3826



*Shripal v. Nagar Nigam*⁸, *Vinod Kumar v. Union of India*⁹, *Dharam Singh v. State of UP*¹⁰ and *Bhola Nath v. State of Jharkhand*¹¹ which have been followed by this Court in *Pawan Sharma v. Govt. of NCT of Delhi*¹² and *New Delhi Municipal Council v. Kalpana Sharma*¹³ as well as the subsequent judgment of a Coordinate Bench of this Court, speaking through Hon'ble the Chief Justice, in *Om Prakash Gaur v. Delhi Technological University*¹⁴, which follows the decision in *Pawan Sharma*. The judgement of this Court in *Pawan Sharma*, we may note, was upheld by the Supreme Court in appeal, *vide* order dated 14 May 2026, with the sole clarification that the persons concerned would not be entitled to seniority over others who may have been regularly appointed in the interregnum.

22. We may reproduce, from the decisions in *Pawan Sharma*, *Kalpana Sharma* and *Om Prakash Gaur*, the relevant paragraphs, thus:

From *Pawan Sharma*

“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,

⁸ 2025 SCC OnLine SC 221

⁹ (2024) 9 SCC 327

¹⁰ 2025 SCC OnLine SC 1735

¹¹ 2026 SCC OnLine SC 129

¹² 2025 SCC OnLine Del 8313

¹³ MANU/DE/2899/2026

¹⁴ 2026 SCC OnLine Del 6224



(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.

16. In the present cases, the petitioners were employed, albeit on contract basis, pursuant to advertisement. A regular selection process, therefore, took place, qualifications were prescribed, and the petitioners fulfilled the qualifications. The appointments were against sanctioned posts. The nature of duties rendered by the petitioners, being nursing and para-medical duties, were, by their very nature, essential and perennial. They could not, therefore, be regarded as dispensable. The service rendered by the petitioners is blemish free. There is no complaint against them at any point of time. They have continued rendering uninterrupted service for close to 20 years. The very fact they have been extended periodically from time to time against sanctioned posts indicates that there is continued need of their services. Their case, therefore, in fact, stands on a much better footing than the cases of the employees/workmen which were before the Supreme Court in *Vinod Kumar, Jaggo, Shripal* and *Dharam Singh*, as the



petitioners were duly qualified, appointed against sanctioned posts and appointed consequent to a regular recruitment process.

17. These factors, by themselves, entitle the petitioners to be regularized in the posts against which they were originally appointed. This is the unmistakable consequence of the decisions in *Vinod Kumar, Jaggo, Shripal* and *Dharam Singh*.

18. Article 141 of the Constitution of India makes the judgments in *Vinod Kumar, Jaggo, Shripal* and *Dharam Singh* binding on us. Article 144 requires us to act in the aid of the law declared by the Supreme Court, which would include making all efforts to ensure that the law declared by the Supreme Court is implemented with full vigor. We cannot, therefore, craft an exception into the law declared in *Vinod Kumar, Jaggo, Shripal* and *Dharam Singh* in cases where regular recruitment exercises were undertaken. Where petitioners had, by dint of their original appointment and continuous uninterrupted blemish free service on the post in which they were appointed, earned a right to regularization, they could not be compelled to participate in any recruitment exercise. Expressed otherwise, the omission on the part of the petitioners to participate in the regular recruitment exercises undertaken by the respondents cannot derogate from their right to regularization flowing from the facts of their cases and the law declared in *Vinod Kumar, Jaggo, Shripal* and *Dharam Singh*.

19. Any attempt at distinguishing the facts of the present case from those which stand covered by the judgments in *Vinod Kumar, Jaggo, Shripal* and *Dharam Singh*, to our mind, would be no less than an affront to the said judgments. We, as a Court lower in the judicial hierarchy, are least inclined to pursue this perilous course. The legal position in this regard stands tellingly underscored in the recent decision of the Supreme Court, rendered just three days ago, in *Rohan Vijay Nahar v State of Maharashtra*¹⁵, from which the following paragraphs merit reproduction:

“1. The judiciary draws its strength from discipline and not dominion. The Constitution of India creates courts of record that are independent in their spheres and yet binds them together through a coherent hierarchy. The High Courts in India possess a wide jurisdiction, *but the Supreme Court of India remains the final interpreter of law. Article 141 of the Constitution of India declares that the law laid down by this Court binds every court in the country. Further, Article 144 of the Constitution obliges all*

¹⁵ (2026) 2 SCC 182



authorities, civil and judicial, to act in aid of this Court. These are not ceremonial recitals. They are the structural guarantees that convert dispersed adjudication into a single system that speaks with one voice and commands public confidence.

2. Judicial discipline is the ethic that turns hierarchy into harmony. *It requires courtesy, restraint, and obedience to binding precedent even where a judge is personally unpersuaded. The lawful course is to apply the precedent and, if needed, record reasons for inviting a larger Bench to reconsider it. The unlawful and unjust course is to distinguish in name while disregarding in substance or to recast issues in order to sidestep a rule that binds. “Stare decisis et non quieta movere” which means to stand by decisions and not to disturb settled matters, is not a slogan but a safeguard of equality before the law. Judges do not sit to settle scores. The gavel is an instrument of reason and not a weapon of reprisal. A vindictive stance is incompatible with the oath to uphold the Constitution and the law.*

3. Judges across our country must remember that collegiality is the companion virtue of independence and that a reversal on appeal is not a personal affront but the ordinary operation of a constitutional hierarchy that corrects error and settles law. *Respect for the senior jurisdiction is not subservience. It is an acknowledgment that all courts pursue a common enterprise to do justice according to law. An Appellate Court reviews and, where necessary, sets right the decision of the lower court with restraint and measured language, and the courts below reciprocate through prompt, reasoned, and transparent compliance. Courts speak through reasons, and reasons that align with binding authority preserve both legality and legitimacy of the judiciary. Articles 141 and 144 of the Constitution make obedience a constitutional duty and not a matter of personal preference. A judgment that attempts to resist binding authority undermines the unity of law, burdens litigants with avoidable expense and delay, and invites the perception that outcomes depend on the identity of the judge. In a constitutional judiciary, it is the law, as declared, that brings the conversation to a close. We restate the simple duty of Courts: apply precedent as it stands and give effect to appellate directions as they are framed. In that discipline lies the confidence of litigants and the credibility of courts.”*



We draw sustenance from these passages.

20. In the light of the law that has now been declared in ***Vinod Kumar, Jaggo, Shripal*** and ***Dharam Singh***, it is clear that the judgment of the Tribunal cannot be upheld.”

(Emphasis supplied)

From ***Kalpana Sharma***

“19. From the decisions in ***Vinod Kumar, Jaggo, Shripal*** and ***Dharam Singh***, the position which emerges is that a right to regularization arises ipso facto in favour of the employees who were initially employed after open selection against sanctioned vacancies and continued on the posts for long periods of time. These three facts i.e., (i) appointment by open selection, (ii) appointment against sanctioned vacancies, and (iii) long and continued discharge of duties on the posts to which they were appointed, by themselves entitled them to regularization. In fact, in ***Jaggo***, the Supreme Court even went to the extent of holding that it was not open to the respondents to contend that the appointments were not made against sanctioned vacancies.

20. The only other additional consideration which emerges from the later decisions on the issue is the duties discharged by the employees concerned. If the appointment is against posts which are transient in nature, the entitlement to regularization would be of a somewhat lower degree. If, however, the employees discharge duties which are basic and essential to the functioning of the organization, their right to regularization stands sanctified.

21. In such circumstances, there can be no question of the employees being required to await framing of RRs or any other such eventualities in order to be regularized. Their right to regularization flows as a consequence of long and unblemished service of the establishment consequent on appointment by open selection against sanctioned vacancies, for work which is essential to the functioning of the organization. It is not open to the establishment after extracting work from such persons for protracted periods of time to contest their claim to regularization on the ground that RRs were to be framed or that RRs which had been framed after the appointment of the respondents, did not qualify them for regularization.

22. We are not inclined to agree with Ms. Dave's contention that we should await the outcome of the correspondences between the NDMC and the UPSC. In para 4(v) of the writ petition, the NDMC has specifically averred that the UPSC rejected the proposal for regularization mooted by the NDMC consequent on an



earlier decision of the Tribunal rendered in OA 3597/2017 on the ground that the appointment of the employees was not in accordance with the RRs and that, therefore, their services could not be regularized merely because they had been serving the Establishment for a long period of time. Reliance was placed by the UPSC for this opinion, on the judgment of the Constitution Bench of the Supreme Court in *Uma Devi*. The view adopted by the UPSC is in the teeth of the law declared in *Jaggo* and the decisions which followed it and reiterated the same position. *Uma Devi* has been considered in all these decisions and the Supreme Court has consistently held that *Uma Devi*, which was intended to be a beneficial decision, aimed at curbing back door appointment, has been weaponized and used as a tool to continue persons on contractual and ad hoc basis for years at a stretch without regularizing their services. Such a practice not only amounts to unfair labour practice but also violates Article 21 of the Constitution of India. As the UPSC has, in a similar case, refused to recommend regularization of the employees concerned, we are of the opinion that no useful purpose would be served by awaiting the reply of the UPSC even if NDMC has been communicating with the UPSC in that regard.

23. Besides, once the right of the respondents to regularization stands crystalized by, as on date, seven judgments of the Supreme Court, all of which are consistent with each other, it would be a travesty of justice and grossly unfair to the respondents to allow their cases to continue to remain in suspended animation.

24. It is true that in some earlier orders, we had issued notice without disposing of the matters, keeping in mind the fact that against earlier decisions passed by us, appeals had been preferred before the Supreme Court which had issued notice thereon and, in some cases, directed, as an interim measure, that the employees before it in those cases be not removed from the posts which were held by them. In view of the fact that the issue was sub judice before the Supreme Court in some cases, we had refrained from passing any final decisions in the writ petitions before us.

25. Ms. Dave predictably draws our attention to this fact.

26. After that, however, the same position had been reiterated by the Supreme Court twice, firstly, in *Bhola Nath* and thereafter in *Pawan Kumar*, rendered by two different Division Benches of the Supreme Court. *Pawan Sharma* expressly reproduces and relies on *Jaggo*.

27. Once the Supreme Court has made its view thus clear, we, as a Court hierarchically lower on the judicial ladder, are bound to



decide the lis before us in terms of the law declared by the Supreme Court.

28. Besides in view of the decisions in **Jaggo**, **Shripal**, **Dharam Singh**, **Bhola Nath**, **Vinod Kumar** and **Pawan Kumar** and the judgment of this Court in **Pawan Sharma**, we find no error whatsoever in the view adopted by the Tribunal.

29. However, we clarify that the respondents would be entitled to exactly the same benefits which were granted to the petitioners in **Pawan Sharma**, i.e., to be regularised prospectively with however, the benefit of fixation of pay, seniority and continuity of service from the date of initial appointment but without any back wages.”

From **Om Prakash Gaur**

“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. Para 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 14-5-2026 passed by the 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 Supreme Court.”

23. The order of the Supreme Court in **Pawan Sharma** read thus:

- “1. Delay condoned.
2. Leave granted.
3. Heard learned Counsel for the parties.
4. Though we are not inclined to interfere with the direction issued by the High Court to regularize the writ petitioners (the respondents herein) on the posts they were originally appointed, we deem it appropriate to clarify the direction contained in paragraph 22 of the impugned order so that the seniority of all those regularly appointed in between the date of initial appointment of the respondents and the date of judgment is not disturbed.
5. Accordingly, we clarify that the direction contained in paragraph 22 of the impugned order shall not affect the inter se seniority of all those who were regularly appointed between the date of initial appointment of the respondents and the date of the judgment of the High Court. In effect, the respondents shall be placed below those regularly appointed candidates in the order of seniority.



6. With the aforesaid clarification/ modification of the impugned order, this appeal is disposed of.

7. Pending application(s), if any, shall stand disposed of.”

24. Though the decisions from **Jaggo** onwards have been rendered much after the pronouncement of the Supreme Court in **Mahesh** and **South Eastern Railway Congress**, they lend additional weight to the right of the respondents to regularization.

25. The Railways have, with their rejoinder, stated, with respect to the respondents in WP(C) 7973/2018, as under:

“It is submitted here that the position of respondents is as follows:

- i. Late Mithai Lal S/o Bhagwati
Not regularised due to being unsuccessful in the screening process at that time and retired as commission vendor in the year 2013. Further it is submitted that Late Mithai Lal was retired on 31.10.2013 as commission vendor and he has never challenged his retirement as commission vendor.
- ii. Sri Rajan
Not regularised as he was not screened.
- iii. Sri Manik Chand S/o Shyamlal
He was found to be unsuitable in the screening process and therefore, he was not absorbed.
- iv. Sri Sohanlal S/o Shyamlal
He was found to be unsuitable in the screening process and therefore, he was not absorbed.”

26. With respect to the respondents in WP(C) 8018/2018, the following table has been annexed to the rejoinder of the petitioner:

SR. No.	Name	Date of Birth	Appointment	Remarks
01	Ram Baran	11.01.62	Absorbed in group 'D' on 21.06.2005 and died	Sr. No. 14 in OA No. 1768/1999



			on 11.07.2021	
02	Ramakant	10.07.51	Absorbed in group 'D' on 19.09.2003	Sr. No. 37 in OA No. 1768/1999
03	Manoj Kumar Chauhan	12.12.66	Absorbed in group 'D' on 15.01.2004	Work as a Porter in commercial Dept..
04	Jagan Nath	04.07.52	Absorbed in group 'D' on 19.09.2003	Sr. No. 12 in OA No. 1768/1999
05	Vijay Prakash	15.07.61	Absorbed in group 'D' on 15.01.2004	Sr. No. 25 in OA No. 1768/1999
06	Ram Kalap	10.01.54	Absorbed in group 'D' on 30.01.2004	Sr. No. 08 in OA No. 1768/1999
07	Ram Lakhan	07.02.52	Absorbed in group 'D' on 19.09.2003	Sr. No. 15 in OA No. 1768/1999
08	Mohan Lal	15.11.53	Absorbed in group 'D' on 06.01.2004	Sr. No. 45 in OA No. 1768/1999
09	Rattan Lal	07.10.66	As found unsuitable and left	Sr. No. 11 in OA No. 1768/1999
10	Chottey Singh	05.08.60	Absorbed in group 'D' on 15.01.2004	-
11	Ram Prasad	08.11.58	Absorbed in group 'D' on 16.07.2004	Sr. No. 57 in OA No. 1768/1999
12	Raju Prasad	15.07.62	Absorbed in group 'D' on 30.01.2004	Sr. No. 28 in OA No. 1768/1999
13	Dinesh Kumar	11.12.62	As found unsuitable and left	Sr. No. 44 in OA No. 1768/1999
14	Nathai	07.07.63	Absorbed in group 'D' on 15.01.2004. working as house keeping assistant in commercial dept.	Sr. No. 39 in OA No. 1768/1999
15	Radhey Shyam	20.06.57	Absorbed in group 'D' on 30.01.2004	Sr. No. 10 in OA No. 1768/1999
16	Gurucharan	01.06.53	Absorbed in group 'D' on 19.09.2003	Sr. No. 02 in OA No. 1768/1999
17	Girdhari Lal	14.07.42	Retired	-
18	Radhey Shyam	-	Died on 14.06.2011	Smt Indrawati devi w/o late Radhey Shyam, filed Oa 85/2012 Indrawati Devi vs UOI and also his son Pramod Kumar has filed OA no. 1645/2012 on account of CGA which is pending before Hon'ble CAT / ALD
19	Chotey Lal	11.06.37	Retired	-
20	Ram Chander	21.10.40	Retired	Sr. No. 24 in OA No. 1768/1999
21	Ramanand	10.11.49	-	Sr. No. 07 in OA No. 1768/1999
22	Ram Chandra	03.04.32	Retired	-
23	Ram Das (Deceased)	10.04.45	Through its wife Smt. Vindhyavasni Ram Das	Sr. No. 38 in OA No. 1768/1999



			absorbed on 06.01.2004 & has retired.	
24	Jeetlal	08.07.46	Absorbed in group 'D' on 06.01.2004	Sr. No. 43 in OA No. 1768/1999
25	Rangi Lal	05.11.45	Absorbed in group 'D' on 06.01.2004	Sr. No. 52 in OA No. 1768/1999
26	Rajesh	NO such person in the record.		-
27	Chunni Lal	01.10.50	Absorbed in group 'D' on 06.01.2004	Sr. No. 31 in OA No. 1768/1999
28	Rajan Pd.	No such person has approached with the respondents.		Sr. No. 29 only Rajan has been mention and father name is also not mention in OA No.. 1768/99
29	Kishori Lal	01.08.46	Absorbed in group 'D' on 06.01.2004	-

27. The aforesaid table also formed part of para 1 of the preliminary objections in the counter affidavit filed by the Union of India in OA 173/2014.

28. The respondents in WP (C) 8018/2013 disputed the correctness of the assertions, in the afore-extracted table, that several of the respondents had been regularised in Group-D posts. This Court, thereupon, passed the following order on 15 September 2022:

“1. Petitioners are directed to file an affidavit indicating the benefits that are being paid to a regular employee and the benefits that are being paid to each of the Respondents. They shall also indicate the retiral benefits to be paid to a regular employee and retiral benefits, if any, that are being paid to the Respondents, who have retired and the legal heirs of the Respondents, who have expired.

2. Let an affidavit be filed within four weeks.

3. Renotify on 22.03.2023.”

29. Significantly, no such affidavit, as directed by the order dated 15 September 2012, vouchsafing the assertion, in the afore extracted



table that several of the respondents in WP (C) 8018/2013 had been absorbed in Group-D posts, has been filed by the Union of India. Rather, somewhat disturbingly, the Union of India filed an additional affidavit dated 12 January 2023, paras 3 and 4 of which read thus:

“3. That it is submitted that the Respondents in the present petition were Commission Vendors and they were working on commission basis as fixed at the time of selling of goods / items and therefore there is no policy to provide any retirement benefits on superannuation/ death to such Commission Vendors. Hence, no retirement benefits are being paid to that Respondents who were not regularized during their service period.

4. That the Respondents who had not been regularized as per rule, they were not entitled for any benefits as provided to other regular employees.”

30. Apparently, therefore, the Railways have been unable to substantiate the assertion, in the afore-extracted table, which was filed both before the Tribunal as well as before this Court, that several of the respondents had been absorbed as Group-D employees. To say the least, this is very disturbing. One would expect the Railways to display candour both before the Tribunal as well as before this Court. We, therefore, are inclined to believe the respondents in their assertions that none of the respondents in either of these writ petitions have been regularised, despite repeated orders passed by judicial fora up to the Supreme Court.

31. In that view of the matter, we find no case, whatsoever, to interfere with the impugned judgment of the Tribunal.

32. Insofar as the costs imposed by the Tribunal are concerned, we are of the opinion that the Tribunal has erred, if at all, on the side of



leniency. It is time that Courts protected the interests of the weaker sections of the society and persons drawing paltry wages, so as to ensure that the socialist structure of our democracy – which is a preambular goal – remains intact. We would have been inclined, in fact, to enhance the costs awarded by the Tribunal but, somewhat hesitatingly, refrain from doing so.

33. The writ petitions are, therefore, dismissed.

34. Let compliance with the order of the Tribunal, including the direction for payment of costs, be ensured within a period of four weeks from today.

35. We have been told that contempt proceedings had been initiated before the Tribunal, which have been kept on hold pending disposal of these writ petitions.

36. In the event that there is failure to comply with the aforesaid directions, we direct the Tribunal to revive the contempt proceedings and take them to their logical conclusion.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

SEPTEMBER 08, 2026/dsn/AR