

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
JABALPUR (M.P.)

NO. CGIT/LC/R/08/2023

Present: P.K.Srivastava

H.J.S..(Retd)

1. Shri Chhathan Kumar Dubey,
S/o Late Shri Yamuna Dubey,
R/o H.No. A/3, Ward No. 19,
Ropakhar Township BALCO,
Post- Kamleshwarpur,
Distt. Surguja (C.G.) 497111

Workman

Vs

1. The Mines Agent,
M/s Bharat Aluminium Company Ltd.,
(BALCO), Mainpat Mines,
PO-BALCO Nagar,
Korba (Chhattisgarh) 495684
2. The Director,
M/s Eagle Hunters Solution Ltd.,
Eagle House, 61C, Kalu Sarai,
Sarvapriya Vihar,
New Delhi- 110016

Management

(JUDGMENT)

(Passed on this 13th day of July, 2026)

As per letter dated **14/02/2023** by the Government of India, Ministry of Labour, New Delhi, the reference has been made to this Tribunal under **Section-10 of Industrial Disputes Act, 1947** (in short the '**Act**') as per Notification **No. RP-5(1-1)/2023-ES.III** dt. **14/02/2023**. The dispute under reference relates to:-

“Whether the action on the part of the Management of M/s Bharat Aluminium Company (BALCO) & M/s Eagle Hunters Solutions Ltd., New Delhi in Terminating Shri Chhathan Kumar Dubey, Ex-Security Guard is legal and justified? If not, to what relief the workman concerned is entitled to?”

After registering the case on the basis of reference, notices were issued to the parties. They appeared and filed their respective statement of claim in defense.

Case of the workman is mainly that he has been continuously working in the Manipat Bauxite Mines of the BALCO the opposite party No. 1 from 05th August, 2005 in the security establishment of the mines as security guard, he worked there as security guard till 30.09.2021, his employment was shown as an outsourcing employee through different contractors engaged by BALCO from time to time. In fact, only the names of the contractors changed, the workman continued working at the site of BALCO as security guard. His provident fund was deducted in the provident fund trust of BALCO and not in the provident fund codes of different contractors which also goes to show that in fact he was employed by the BALCO itself. According to the workman, the outsourcing contractors are sham and camouflage adopted by management of BALCO just to deny the workman of his legally admissible claims regarding permanent status and regularization.

He was disengaged by management without notice or compensation. This action of management is in violation of section 25-F and 25-G of the Act. The management has adopted unfair labour practice by engaging the workman as security guard for 16 years as a contract labour. The workman has thus prayed that holding the termination of his service against law, he be reinstated with all back wages and benefits.

The management of BALCO has taken a case that the workman was never appointed by them, he never worked as their employee hence there is no relation of employer and employee between them and the workman, infact the workman was engaged by different contractors and was deputed by the contractors to work at the site of the management as security guard under an outsourcing agreement between the contractors. The contractors were paid their charges and they used to pay wages to the workman. The provident fund of the workman was deposited with the trust maintained by the management of BALCO thus to ensure that contractors discharge their legal obligation to deposit the provident fund dues of their workman as it is the duty of the management of BALCO as Principal Employer. It is also the case of the management that the workman was appointed by the contractors, paid by the contractors, the contractors had the authority to dismiss or take any action against him and they had control and supervision with his duties. He was posted as directed by the contractors and not directed by management of BALCO. Accordingly, management of BALCO has prayed the reference be answered against the workman.

The contractor M/s Eagle Hunters Solution Ltd., has also filed written statement of defence in which they have stated that they were contractors for a small period with BALCO which ended on 21.09.2021. They have been awarded contract for supply of security guards, they had supplied the applicant workman to work as security guard at the site of BALCO, the Principal Employer, he was disengaged after the contract came to an end.

In evidence, the workman has filed his affidavit as his Examination-in-chief, he has been cross-examined by both the managements, and he has also filed and proved Ex-W/1, reply of the mines In-charge of BALCO submitted by him before the Labour Commissioner on 20.12.2022 with respect

to dispute raised by him. Ex-W/2 is the reply of the Contractor before the Labour Commissioner.

The management of BALCO has filed affidavit of its witness Mr. Bhoopesh Kumar Sirsant as his Examination-in-chief. He has been cross-examined by workman. Management has further filed copies of different outsourcing agreements admitted by the workman. Management of contractor, M/s Eagle Hunters Solution Ltd., has also filed affidavit of its witness Mr. Braj Bhooshan Pandey as his Examination-in-chief, he has been cross-examined by workman side.

I have heard argument of Learned Counsel for workman, Mr. Y. C. Sharma, Learned Counsel Mr. Arun Patel for management of BALCO and Mr. Neeraj Kewat, Learned Counsel for Contractor, M/s Eagle Hunters Solution Ltd. I have gone through the record as well.

On perusal of on record, in light of rival arguments, the reference itself is the issue for determination.

Learned Counsel for the workman has submitted that, he has been shown to be engaged by different contractors during the different period. These contracts are sham and bogus, camouflage adopted by management to deny the workman his legally admissible rights. The workman has continuously worked with the management from 05.08.2005 to 30.09.2021 and was retrenched without any notice or compensation. Learned counsel further submits that by way of engaging the workman, as contract labour for such a period just with a view to deny him, his legally admissible rights is unfair labour practice adopted by management. This Tribunal is within its powers to undue the civil consequences of such an unfair labour practice and grant relief to the workman.

Learned counsel for management has submitted that the workman was an outsourced employee, engaged by different contractors at different points of time. There was no relationship of employer employee within him and the management of BALCO. He was not terminated by the management of BALCO rather was terminated by the outsourcing company who had engaged him, hence, there is no question of his illegal termination.

Pleadings of the parties have already been detailed earlier, according to the workman himself, he worked right from August, 2005 till date of his termination under different contractors, last was M/s Eagle Hunter Solutions, with whom he alleges to worked from 2018 to 2021. His case is that, in fact, he was engaged by management of BALCO as a security guard, but was shown as outsourced employee engaged by the outsourcing agency and deputed at the site of the management of BALCO, which is incorrect, camouflage and sham, adopted by management just to deny him, his legally admissible rights.

The workman has stated on Oath that, his PF was deducted by management of BALCO and was deposited in the PF trust maintained by management of BALCO. He has further stated in his affidavit that only contractors kept changing, he remained working with the management of BALCO. He further states in his affidavit that his services were regulated by management of BALCO, he has referred to order of management of BALCO dated 13.10.2018 and 31.12.2019 filed with the statement of claim but these documents were not proved, hence, cannot be read in evidence in his favour. He further states that security officer of management of BALCO used to check his presence.

Learned counsel for the management of BALCO and contractor has referred to affidavit of their witness filed as

their Examination-in-chief, in which the witness from BALCO, stated that workman was a contract worker outsourced by the outsourcing agency at the site of management of BALCO to work as a security guard, he was appointed by the outsourcing agency and was terminated by the outsourcing agency. He was paid his wages by the outsourcing agency, his services were also regulated by the outsourcing agency. Learned counsel has further submitted that simply, the case of management of BALCO had some say in deputing the security guard at place they wanted, it cannot be said that their services were regulated by the management of BALCO nor it can be said that the management of BALCO had any control or supervision on the working of the workman.

The contract documents with respect to different contractors and last contractor M/s Eagle Hunter Solutions filed and proved also corroborated the case of management.

Hence on the basis of above discussion, the contracts cannot be said to be sham or camouflage and are held not be sham and camouflage.

The case of the contractor, M/s Eagle Hunter Solutions is that the workman was disengaged after their contracts with the management of BALCO for supplying of manpower of security guard came to end. Undisputedly, the workman worked from 2018 to 2021 with M/s Eagle Hunter Solutions and he was not paid any notice or compensation. Hence, in absence of any documents from M/s Eagle Hunter Solutions contractor to show that the engagement of workman was contractual for a fixed period, the disengagement of the workman was without notice pay and compensation, is held in violation of section 25F and 25G of the Act.

As regards, the second case of the workman that the management adopted unfair labour practice by way of engaging contract labour on a job of permanent nature for

years and years to deny him his legally admissible rights. From the evidence on record as mentioned above, this fact is established that the workman worked as a security guard at the site of management of BALCO from 2005 to 2021. Hence, adoption of unfair labour practice in the case in hand by the management of BALCO is being established.

For the sake of convenience, Section 2(ra) of the Act is being reproduced as follows:

2(ra) "unfair labour practice" means any of the practices specified in the Fifth Schedule;

THE FIFTH SCHEDULE See section 2(ra) UNFAIR LABOUR PRACTICES I.—On the part of employers and trade unions of employers

10. To employ workmen as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen.

Section 10 Contract Labour (Regulation & Abolition) Act, 1970, is being reproduced as follows:-

"10. Prohibition of employment of contract labour.-

(1) Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour that establishment and other relevant factors, such as-

(a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment ;

(b) whether it is of perennial nature, that is to say, it is so of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;

(c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;

(d) whether it is sufficient to employ considerable number of whole-time workmen.

Explanation.- If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final."

It is also established that this work of Chowkidar at present is being taken through manpower supplied by outsourcing agencies. Hence, the nature of the work is of permanent nature.

Section 25-T & 25-U prohibits unfair labour practice under the Act. It is punishable as a crime.

25T. Prohibition of unfair labour practice.—No employer or workman or a trade union, whether registered under the Trade Unions Act, 1926 (18 of 1926), or not, shall commit any unfair labour practice.

25U. Penalty for committing unfair labour practices.—Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

This Tribunal is well within its powers to undo the civil consequences of such an unfair labour practice.

There are criminal consequences of unfair labour practice adopted by the parties. The Act does not provide civil consequences to unfair labour practice but it does not mean that the Courts and Tribunals are without power to undo the civil consequences of unfair labour practice as it has happened in the case in hand.

Following paragraphs of the judgment of Hon'ble Supreme Court in case of, **Sudarshan Rajpoot v/s U.P. State Road Transport Corporation (2015) II, SCC 317**, are being reproduced as follows:-

11. It has been contended by the learned counsel for the appellant workman that the High Court has erred in placing reliance upon the decision of this Court in *Umadevi (3)* case [*State of Karnataka v. Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , which was distinguished inasmuch as the said case is not applicable to the case on hand for the reason that the appellant workman is a “workman” as defined under Section 2(z) of the UPID Act and the respondent is the statutory corporation which is an undertaking of the State Government and therefore, as it is an instrumentality of the State Government, it will come within the definition of “industry” as defined under Section 2(k) of the UPID Act. Therefore, the said provisions of the UPID Act are applicable to the appellant workman as he is a “workman” as defined under Section 2(z) of the UPID Act and Section 2(s) of the ID Act, 1947.

12. Further, it is contended that the High Court has failed to consider the “unfair labour practice” as defined under Section 2(ra) of the ID Act, 1947 read with Sections 25-T and 25-U and Schedule V of the ID Act. Item 10 of Schedule V of the ID Act prohibits the employer to employ workmen as badlis, casuals or temporaries and to continue them as such for years in the Corporation, with the object of depriving them of the status and privileges of permanent workmen is prohibited. It is further contended that the respondent Corporation is liable for Panel action under the provisions of Section 25-U of the ID Act. In support of the above contention, reliance was placed on the three-Judge Bench decision of this Court in *Chief Conservator of Forests v. Jagannath Maruti Kondhare* [*Chief Conservator of Forests v. Jagannath Maruti Kondhare*, (1996) 2 SCC 293 : 1996 SCC (L&S) 500] .

13. On the other hand, the learned counsel appearing on behalf of the respondent Corporation sought to justify the correctness of the finding and reasons recorded by the High Court in the impugned judgment [*U.P. SRTC v. Sudarshan Rajpoot*, Writ-C No. 21553 of 2005, order dated 5-3-2008 (All)] . Alternatively, it is contended that even if the order of termination is bad in law, the workman who is working on the contract basis is not entitled for reinstatement with full back wages as per the view taken by this Court in several decisions. Therefore, the learned counsel for the respondent Corporation submits that the impugned judgment [*U.P. SRTC v. Sudarshan Rajpoot*, Writ-C No. 21553 of 2005,

order dated 5-3-2008 (All)] and order need not be interfered with by this Court in exercise of its appellate jurisdiction.

14. With reference to the abovesaid rival legal contentions the following substantial questions would arise for our consideration:

14.1. (i) Whether the High Court is justified in passing the impugned judgment [U.P. SRTC v. Sudarshan Rajpoot, Writ-C No. 21553 of 2005, order dated 5-3-2008 (All)] , order and reversing the award passed by the Labour Court?

14.2. (ii) Whether the order of termination passed against the appellant workman amounts to retrenchment as defined under Section 2(s) of the UPID Act, 1947?

14.3. (iii) Whether non-compliance with the statutory provisions under Sections 6-N and 6-Q of the UPID Act which are analogous with Sections 25-F and 25-H, respectively, of the ID Act, 1947 renders the order of termination void ab initio in law?

14.4. (iv) What relief is the appellant workman entitled to?

15. To answer the above substantial questions of law it is necessary for this Court to extract the order of termination passed by the Assistant Regional Manager of the Corporation, which reads thus:

“OFFICE OF ASSISTANT REGIONAL MANAGER,

U.P. TRANSPORT CORPORATION, AZAD NAGAR DEPOT

Letter No. ARM/A. Ngr/Bus Accident 0582/2000/3591 dated 29-7-2000

OFFICE ORDER

On 7-6-1999 vehicle bearing No. 8582 which had met with an accident which was being driven on 7-6-1999 by Shri Sudarshan Rajpoot, contractual driver and conductor Shri Kamta Prasad on Deoria to Kanpur route and accident occurred on the way at 1.30 a.m. in the night at Village Palhari, Barabanki near Police Station Safdarganj and due to negligent driving of the driver, department suffered heavy loss.

Hence, in order to meet departmental loss, forfeiting security of driver Shri Sudarshan Rajpoot, I pass the order to strike off his name from the contract roll with an immediate effect. His name be struck off from contract roll.

sd/-

(Illegible)

(Sad Sayed)

Assistant Regional Manager,

Azad Nagar, Depot"

(emphasis supplied)

In the aforesaid order of termination it is specially mentioned that the appellant workman was appointed as a driver on contractual basis. It has been further stated that the accident occurred on 7-6-1999 due to the negligent driving of the appellant workman resulting in heavy loss to the Department of the respondent Corporation. In order to meet the departmental loss, security amount of driver was forfeited and Assistant Regional Manager had struck off the name of the appellant workman from the contract employees roll with immediate effect.

16. The respondent Corporation has neither produced documentary evidence nor showed before the Labour Court that the appellant workman was appointed on contract basis. The fact that he deposited Rs 2000 towards security amount with the respondent Corporation indicates that he was working as a driver on a permanent basis. In view of Schedule V, Item 10 of the ID Act, 1947 the respondent Corporation is prohibited from engaging the appellant workman as a badli, casual or temporary workman to work on permanent basis. The fact that he had been continuously working for more than 3 years and he had rendered more than 240 days of service as the driver in a calendar year until his termination order and yet he is being engaged on a contractual basis in the respondent Corporation is statutorily prohibited. The same amounts to an unfair labour practice as defined under Section 2(ra) read with Section 25-T, which action of the Corporation is punishable under Section 25-U of the ID Act. This legal position is settled by this Court in Chief Conservator of Forests case [Chief Conservator of Forests v. Jagannath Maruti Kondhare, (1996) 2 SCC 293 : 1996 SCC (L&S) 500] wherein it was held as under : (SCC pp. 302-03, para 22)

"22. ... In our opinion, it would be permissible on facts of a particular case to draw the inference mentioned in the second part of the item, if badlis, casuals or temporaries are continued as such for years. We further state that the present was such a case inasmuch as from

the materials on record we are satisfied that the 25 workmen who went to the Industrial Court of Pune (and 15 to the Industrial Court, Ahmednagar) had been kept as casuals for long years with the primary object of depriving them of the status of permanent employees inasmuch as giving of this status would have required the employer to pay the workmen at a rate higher than the one fixed under the Minimum Wages Act. We can think of no other possible object as, it may be remembered, that the Pachgaon Parwati Scheme was intended to cater to the recreational and educational aspirations also of the populace, which are not ephemeral objects, but par excellence permanent. We would say the same about environment-pollution-care work of Ahmednagar, whose need is on the increase because of increase in pollution. Permanency is thus writ large on the face of both the types of work. If, even in such projects, persons are kept in jobs on casual basis for years the object manifests itself; no scrutiny is required. We, therefore, answer the second question also against the appellants."

25. This Court in the later judgment in Hari Nandan Prasad v. Food Corporation of India [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] , after adverting to the law laid down in U.P. Power Corpn. Ltd. v. Bijli Mazdoor Sangh [(2007) 5 SCC 755 : (2007) 2 SCC (L&S) 258] and Maharashtra SRTC [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513] wherein Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] is adverted to in both the cases, held that on a harmonious reading of the two judgments, even when there are posts available, in the absence of any unfair labour practice the Labour Court cannot give direction for regularisation only because a worker has continued as daily-wage worker/ad hoc/temporary worker for number of years. Further, such a direction cannot be given when the worker concerned does not meet the eligibility requirement of the post in question as per the recruitment rules:

25.1. It was held at para 32 in Hari Nandan Prasad case [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] as under : (SCC p. 211)

“32. However, the Court in Maharashtra SRTC case [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556: (2009) 2 SCC (L&S) 513] found that the factual position was different in the case before it. Here the post of cleaners in the establishment was in existence. Further, there was a finding of fact recorded that the Corporation had indulged in unfair labour practice by engaging these workers on temporary/casual/daily-wage basis and paying them paltry amount even when they were discharging duties of eight hours a day and performing the same duties as that of regular employees.”

25.2. Furthis, Hari Nandan Prasad [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] referred at para 36, LIC v. D.J. Bahadur [(1981) 1 SCC 315 : 1981 SCC (L&S) 111 : (1981) 1 SCR 1083] in which the relevant para 22 of LIC case [(1981) 1 SCC 315 : 1981 SCC (L&S) 111 : (1981) 1 SCR 1083] is extracted as under : (Hari Nandan Prasad case [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] , SCC p. 213)

“36. ... ‘22. The Industrial Disputes Act is a benign measure which seeks to pre-empt industrial tensions, provide the mechanics of dispute resolutions and set up the necessary infrastructure, so that the energies of the partners in production may not be dissipated in counterproductive battles and the assurance of industrial justice may create a climate of goodwill.’ (D.J. Bahadur case [(1981) 1 SCC 315 : 1981 SCC (L&S) 111 : (1981) 1 SCR 1083] , SCC p. 334, per Krishna Iyer, J.)

In order to achieve the aforesaid objectives, the Labour Courts/Industrial Tribunals are given wide powers not only to enforce the rights but even to create new rights, with the underlying objective to achieve social justice. Way back in the year 1950 i.e. immediately after the enactment of the Industrial Disputes Act, in one of its first and celebrated judgment in Bharat Bank Ltd. v. Employees [1950 SCC 470 : AIR 1950 SC 188 : 1950 LLJ 921 at p. 948] this aspect was highlighted by the Court observing as under : (AIR p. 209, para 61)

‘61. ... In settling the disputes between the employers and the workmen, the function of the Tribunal is not confined to administration of justice in accordance with law. It can confer rights and privileges on either party which it considers reasonable and proper, though they

may not be within the terms of any existing agreement. It has not merely to interpret or give effect to the contractual rights and obligations of the parties. It can create new rights and obligations between them which it considers essential for keeping industrial peace.”

25.3. And again at para 37, observing that the aforesaid sweeping power conferred upon the Tribunal is not unbridled and is circumscribed by this Court in New Maneck Chowk Spg. & Wvg. Co. Ltd. v. Textile Labour Assn. [AIR 1961 SC 867] , the relevant para 6 of which is extracted as under : (Hari Nandan Prasad case [Hari Nandan Prasad v. Food Corporation of India, (2014) 7 SCC 190 : (2014) 2 SCC (L&S) 408] , SCC p. 213, paras 37-38)

“37. ... ‘6. ... This, however, does not mean that an Industrial Court can do anything and everything when dealing with an industrial dispute. This power is conditioned by the subject-matter with which it is dealing and also by the existing industrial law and it would not be open to it while dealing with a particular matter before it to overlook the industrial law relating to that matter as laid down by the legislature or by this Court.’ (Textile Labour Assn. case [AIR 1961 SC 867] , AIR p. 870)

38. It is, thus, this fine balancing which is required to be achieved while adjudicating a particular dispute, keeping in mind that the industrial disputes are settled by industrial adjudication on principle of fair play and justice.”

26. In view of the aforesaid statement of law laid down by this Court after adverting to the powers of the Industrial Tribunal and the Labour Court as interpreted by this Court in the earlier decisions referred to supra, the said principle is aptly applicable to the fact situation of the case on hand, for the reason that the Labour Court recorded a finding of fact in favour of the workman that the termination of services of the appellant herein is not legal and valid and further reaffirmed the said finding and also clearly held that the plea taken in the order of termination that he was appointed on contract basis as a driver is not proved by producing cogent evidence. Further, we hold that even if the plea of the employer is accepted, extracting work though of permanent nature continuously for more than three years, the alleged employment on contract basis is wholly impermissible. Therefore, we have held that it amounts to an unfair

labour practice as defined under Section 2(ra) of the ID Act, 1947 read with Section 25-T which is prohibited under Section 25-U, Chapter V-C of the ID Act, 1947. We have to hold that the judgment of the High Court in reversing the award is not legal and the same is set aside by us.

21. In the order of termination, it is alleged that on account of negligent driving of the bus by the appellant workman the accident of the vehicle happened, the said allegation was neither proved in the inquiry required to be conducted nor producing evidence before the Labour Court by the respondent Corporation. Therefore, the High Court has failed to examine the above vital aspects of the case on hand and erroneously interfered with the award passed by the Labour Court in exercise of its extraordinary and supervisory jurisdiction under Articles 226 and 227 of the Constitution of India. This exercise of power is contrary to the law laid down by this Court in Harjinder Singh v. Punjab State Warehousing Corpn. [(2010) 3 SCC 192 : (2010) 1 SCC (L&S) 1146] , wherein this Court held thus : (SCC p. 205, para 21)

“21. Before concluding, we consider it necessary to observe that while exercising jurisdiction under Articles 226 and/or 227 of the Constitution in matters like the present one, the High Courts are duty-bound to keep in mind that the Industrial Disputes Act and other similar legislative instruments are social welfare legislations and the same are required to be interpreted keeping in view the goals set out in the Preamble of the Constitution and the provisions contained in Part IV thereof in general and Articles 38, 39(a) to (e), 43 and 43-A in particular, which mandate that the State should secure a social order for the promotion of welfare of the people, ensure equality between men and women and equitable distribution of material resources of the community to subserve the common good and also ensure that the workers get their dues. More than 41 years ago, Gajendragadkar, J. opined that:

‘10. ... the concept of social and economic justice is a living concept of revolutionary import; it gives sustenance to the rule of law and meaning and significance to the ideal of welfare State.’

(State of Mysore v. Workers of Gold Mines [AIR 1958 SC 923] , AIR p. 928, para 10.)”

24. We are of the opinion that the view taken in *Maharashtra SRTC [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513]* at para 36 after distinguishing *Umadevi (3)* case [*State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753*] is the plausible view. Therefore, we have to hold that the finding of the High Court in setting aside the finding of fact recorded by the Labour Court in its award by applying *Umadevi (3)* case [*State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753*] is wholly untenable in law. Therefore, the same is set aside by this Court.

23. Further, the reliance placed upon the decision of this Court on *Umadevi (3)* case [*State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753*] by the High Court to reverse the finding of fact recorded in the award in favour of the workman in answering the points of dispute in the negative, is not tenable in law in view of the judgment of this Court in *Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana [Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556 : (2009) 2 SCC (L&S) 513]*, wherein, this Court after adverting to *Umadevi (3)* case [*State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753*] at para 36, has held that the said case

“does not denude the Industrial and Labour Courts of their statutory power under Section 30 read with Section 32 of the MRTU and PULP Act to order permanency of the workers who have been victims of unfair labour practice on the part of the employer under Item 6 of Schedule IV where the posts on which they have been working exist”. (SCC p. 574)

Further, this Court held that : (SCC p. 574, para 36)

“36. ... *Umadevi (3)* case [*State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753*] cannot be held to have overridden the powers of the Industrial and Labour Courts in passing appropriate order under Section 30 of the MRTU and PULP Act, once unfair labour practice on the part of the employer under Item 6 of Schedule IV is established.”

By not employing a person on permanent regular basis against the permanent job and engaging him as contract

labours for a work of permanent perennial nature either directly or by outsourcing agencies, the management is held to have adopted unfair labour practice which is prohibited under the Act.

Reference may be taken of judgment of Hon'ble Supreme Court in the case of ***Jaggo v/s Union of India reported in (2024) SCC Online SC 3826***, the relevant paragraphs of this judgment are being reproduced 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.

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 labelled 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.”*

The principle laid down in the case of Jaggo (Supra) has been followed by Hon’ble Supreme Court in the case

of *Shripal Vs. Nagar Nigam Ghaziabad in Civil Appeal No. 8157/2024 (2025 INSC 144)*. The relevant portion of the said judgment is being reproduced as follows:-

“12. The evidence, including documentary material and undisputed facts, reveals that the Appellant Workmen performed duties integral to the Respondent Employer’s municipal functions specifically the upkeep of parks, horticultural tasks, and city beautification efforts. Such work is evidently perennial rather than sporadic or project-based. Reliance on a general “ban on fresh recruitment” cannot be used to deny labor protections to long serving workmen. On the contrary, the acknowledged shortage of Gardeners in the Ghaziabad Nagar Nigam reinforces the notion that these positions are essential and ongoing, not intermittent. By requiring the same tasks (planting, pruning, general upkeep) from the Appellant Workmen as from regular Gardeners but still compensating them inadequately and inconsistently the Respondent Employer has effectively engaged in an unfair labour practice. The principle of “equal pay for equal work,” repeatedly emphasized by this Court, cannot be casually disregarded when workers have served for extended periods in roles resembling those of permanent employees. Long-standing assignments under the Employer’s direct supervision belie any notion that these were mere short-term casual engagements.

14. The Respondent Employer places reliance on Umadevi (supra) to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, Uma Devi itself distinguishes between appointments that are “illegal” and those that are “irregular,” the latter being eligible for regularization if they meet certain conditions.

More importantly, Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment. Given the record which shows no true contractor based arrangement and a consistent need for permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices.

15. It is manifest that the Appellant Workmen continuously rendered their services over several years, sometimes spanning more than a decade. Even if certain muster rolls were not produced in full, the Employer's failure to furnish such records—despite directions to do so—allows an adverse inference under well-established labour jurisprudence. Indian labour law strongly disfavors perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature. Morally and legally, workers who fulfil ongoing municipal requirements year after year cannot be dismissed summarily as dispensable, particularly in the absence of a genuine contractor agreement. At this juncture, it would be appropriate to recall the broader critique of indefinite "temporary" employment practices as done by a recent judgment of this court in Jaggo v. Union of India

16. The High Court did acknowledge the Employer's inability to justify these abrupt terminations. Consequently, it ordered re-engagement on daily wages with some measure of parity in minimum pay. Regrettably, this only perpetuated precariousness: the Appellant Workmen were left in a marginally improved yet still uncertain status. While the High Court recognized the importance of their work and hinted at eventual regularization, it failed to afford them continuity of service or meaningful back wages commensurate with the degree of statutory violation evident on record.

17. In light of these considerations, the Employer's discontinuation of the Appellant Workmen stands in violation of the most basic labour law principles. Once it is established that their services were terminated without adhering to Sections 6E and 6N of the U.P. Industrial Disputes Act, 1947, and that they were engaged in essential, perennial duties, these workers cannot be relegated to perpetual uncertainty. While concerns of municipal budget and compliance with recruitment rules merit consideration, such concerns do not absolve the Employer of statutory obligations or negate equitable entitlements. Indeed, bureaucratic limitations cannot trump the legitimate rights of workmen who have served continuously in de facto regular roles for an extended period. 18. The impugned order of the High Court, to the extent they confine the Appellant Workmen to future daily-wage engagement without continuity or meaningful back wages, is hereby set aside with the following directions:-

I. The discontinuation of the Appellant Workmen's services, effected without compliance with Section 6E and Section 6N of the U.P. Industrial Disputes Act, 1947, is declared illegal. All orders or communications terminating their services are quashed. In consequence, the Appellant Workmen shall be treated as continuing in service from thereof their termination, for all purposes, including seniority and continuity in service.

II. The Respondent Employer shall reinstate the Appellant Workmen in their respective posts (or posts akin to the duties they previously performed) within four weeks from the date of this judgment. Their entire period of absence (from the date of termination until actual reinstatement) shall be counted for continuity of service and all consequential benefits, such as seniority and eligibility for promotions, if any.

III. Considering the length of service, the Appellant Workmen shall be entitled to 50% of the back wages from the date of their discontinuation until their actual reinstatement. The Respondent Employer shall clear the aforesaid dues within three months from the date of their reinstatement.

IV. The Respondent Employer is directed to initiate a fair and transparent process for regularizing the Appellant Workmen within six months from the date of reinstatement, duly considering the fact that they have performed perennial municipal duties akin to permanent posts. In assessing regularization, the Employer shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Appellant Workmen or to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the Respondent Employer shall expedite all necessary administrative processes to ensure these longtime employees are not indefinitely retained on daily wages contrary to statutory and equitable norms."

In the case of ***The Municipal Council, Rep. By Its Commissioner Nandyal Municipality, Kurnool District, A.P. v/s K. Jayaram and Others etc. Etc., 2026 Live Law (SC) 38, Hon'ble the Apex Court***, has laid down that outsourced employees cannot be regularized by the principal employer because there is no relation of employer-employee between the principal employer and the employee. Hon'ble Supreme Court, issued direction to management in that case to consider regularization of the workman if he was found otherwise fit. The relevant portion of the said Judgment is being reproduced as follows:-

"Having passed the order, we feel that sometimes justice is required to be tempered with mercy as human

factors cannot be totally lost sight of. In such view of the matter, we would require the appellant to look into whether the jobs which were being done by the respondents, in the background that they have not been disengaged or returned to the contractor on the ground of being unsatisfactory, having uninterrupted service under the appellant for decades can be regularized on posts, which prima facie appears to be perpetual in nature. We make it clear that this direction is limited for the purposes of the present case only as it has been passed in the special facts and circumstances of the present case and shall not be treated as a precedent in any other case. We expect the appellant to take a compassionate and sympathetic view in the matter." Almost similar are the facts in the case in hand.

From the above discussion two facts are being established;

- 1. Disengagement of the workman by M/s Eagle Hunter Solutions without any notice pay and compensation is against 25F and 25G of the Act.**
- 2. The management of BALCO had adopted, unfair labour practice by taking the work from the workman as a contract labour for about 16 years i.e., from 2005 to 2021.**

Undisputedly, the workman has been suffering from Cancer, hence, not in a position to resume his job. Learned counsel for the workman has referred to Judgment of **Hon'ble Supreme Court in the case of Mahanadi Coalfields Ltd. vs Brajrajnagar Coal Mines Workers Union, (2024) 3 SCR 627**, but this judgment can be justified on facts because it relates to settlement with respect to regularization reached at between the management and the Union in

which some workers were regularized as per settlement and remaining were left out though they had the same case.

In light of above discussion and findings, lump sum compensation to the workman in lieu of all the claims be a just and equitable remedy in the case in hand. The compensation is quantified at **Rs. 5,00,000/- (Five Lac Only)** to be paid equally by M/s Eagle Hunter Solutions and management of BALCO within 90 days from the date of Award along with interest @ 6% from the date of his termination till payment.

AWARD

“Holding the action of Management of M/s Bharat Aluminium Company (BALCO) & M/s Eagle Hunters Solutions Ltd., New Delhi in Terminating Shri Chhathan Kumar Dubey, Ex-Security Guard, illegal, arbitrary and unjustified, he is held entitled to a lump sum amount of Rs. 5,00,000/- (Five Lacs Only) to be paid equally by M/s Eagle Hunter Solutions and management of BALCO within 90 days from the date of Award along with interest @ 6% from the date of his termination till payment. Reference stands answered accordingly.”

No order as to cost.

DATE:- 13-07-2026

(P.K.SRIVASTAVA)
PRESIDING OFFICER