

Dharam Veer vs Bharat Sanchar Nigam Limited Through Its Chief Managing Director & Ors.

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Court : Delhi

Decided On : Apr-01-2026

Judge : Hon'Ble Mr. Justice Amit Mahajan,Hon'Ble Mr. Justice Anil Kshetarpal

Appeal No. : W.P.(C)/16123/2023

Appellant : Dharam Veer

Respondent : Bharat Sanchar Nigam Limited Through Its Chief Managing Director & Ors.

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment reserved on: 24.03.2026

Judgment pronounced on: 01.04.2026

Judgment uploaded on: 01.04.2026

+ W.P.(C) 16123/2023 DHARAM VEERPetitioner Through: Ishita Kadiyan, Advocate.

versus

BHARAT SANCHAR NIGAM LIMITED THROUGH ITS CHIEF MANAGING DIRECTOR & ORS.Respondents Through: Mr. Ram Krishan, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

JUDGMENT

ANIL KSHETARPAL, J.:

1. The Petitioner has invoked jurisdiction under Article 226 of the

Constitution of India in order to challenge the correctness of the order

dated 05.09.2022 [hereinafter referred to as Impugned Order] passed by the Central Administrative Tribunal [hereinafter referred to as the Tribunal] in O.A. No. 1837/2015, whereby the said Original Application filed by the Petitioner, seeking directions to the Respondents to regularize his services at par with Sh. Naresh Kumar and Smt. Guddi, came to be dismissed.

2. The primary issue which arises for consideration in the present Petition is whether the Petitioner is entitled to regularisation of his services at par with similarly situated employees, in terms of the

judgment dated 26.10.2005 passed by this Court.

Signing Date:01.04.2026 Page 1 of 13 FACTUAL MATRIX:

3. In order to comprehend the issues involved in the present case, the relevant facts, in brief, are required to be noticed.

4. The Petitioner was initially employed by the Respondent No.1/BSNL as a casual labourer in the office of Delhi Telegraph Office (DTO), Paharganj, New Delhi, with effect from October,

1995. He continued to discharge his duties without any break till October, 2001, when the DTO, Paharganj, was closed.

5. It is the case of the Petitioner that the Telegraph Unit (Central

Sub-Divisional Engineer, Central Telegraph Office) maintained a common seniority list of part-time casual labourers working across various DTO offices. In the said seniority list, the Petitioner was placed between Sh. Naresh Kumar and Smt. Guddi. While Sh. Naresh Kumar, who was junior to the Petitioner, was placed at Serial No. 12, the Petitioner was placed at Serial No. 13, and Smt. Guddi at Serial No. 14.

6. In the year 2001, upon closure of the DTO at Paharganj, the

Petitioner was declared surplus. It is further the case of the Petitioner that similarly situated casual labourers, including Sh. Naresh Kumar and Smt. Guddi, were re-engaged in other offices. Sh. Naresh Kumar, who was junior to the Petitioner, having been initially engaged on 10.05.1996, was re-engaged on 22.02.2001. It is further stated that his services had earlier been dispensed with on 10.09.1998 on account of alleged misconduct. Smt. Guddi was also re-engaged. However, the Petitioner was not re-engaged at that stage.

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7. Subsequently, the services of Sh. Naresh Kumar and Smt.

Guddi were regularised, whereas no such benefit was extended to the Petitioner. Aggrieved thereby, the Petitioner, after making representations, filed W.P.(C) No. 11774/2004 seeking re-engagement and consequential benefits, including treatment at par with the aforesaid employees. The said writ petition was allowed by this Court vide judgment dated 26.10.2005. The relevant observations are reproduced as under: 9. The petitioner admittedly had worked uninterruptedly for six years. The Unit where he was working was shut down like in the case of the other employees particularly Smt. Guddi. The policy of BSNL dated 10.10.2003 clearly indicates that those who had worked on part-time basis could be treated as full time casual labourers if they had worked for 240 days in the preceding 12 months prior to the date of issuance of the letter. The petitioner had been by then terminated from the services. Nevertheless, the stand of BSNL that he could not avail the benefit of the circular since the unit had been closed, is not reasonable. This is because in the case of Naresh Kumar, who was admittedly initially engaged for only two years but terminated on account of lack of devotion to duty, the respondent even while applying with the orders of Central Administrative Tribunal, regularized him in the Central Telegraph Office. In the case of Smt. Guddi, as far as the facts are concerned, the employee was terminated on account of the office or unit being Office as part-time Karamchari, where she was regularised.

10. In view of these factors the charge of discrimination and unequal

treatment has been established. If the BSNL had policy not to engage any one where unit or office has been shut down and had applied that policy uniformly there would not have any grievance for the petitioner. Yet it has chosen the policy of singling out a few employees for favourable treatment and regularizing them even while denying that benefit to others. No principle or yardstick have been indicated in support of this practice.

11. I am, therefore, of the opinion that the respondents have acted in a discriminatory manner while denying the petitioner re-engagement and the benefit of the treatment as full-time worker pursuant to the policies.

12. For the reasons indicated above, the respondents are directed to offer a suitable post to the petitioner within a period of three months from today and grant the same treatment as was given to Sh. Naresh Signing Date:01.04.2026 Page 3 of 13 Kumar, Smt. Guddi whose instances having discussed above.

13. The writ petition is allowed to the extent indicated above.

8. Pursuant to the aforesaid judgment, the Petitioner was re- engaged on 11.03.2006 as a part-time casual labourer and was thereafter, made a full-time casual labourer with effect from March,

2007. However, the services of the Petitioner were not regularized.

The Petitioner continued to submit representations seeking compliance of the judgment dated 26.10.2005. The said representations were ultimately rejected by the Respondents vide communication dated 13.06.2013.

9. Aggrieved by the rejection of his claim, the Petitioner

challenged the said communication by initiating contempt proceedings before this Court being Contempt Case (C) No.740/2013. The said petition was dismissed vide order dated 14.10.2014 on the ground of limitation. However, this Court observed that the communication dated 13.06.2013 gave rise to a fresh cause of action and that the

judgment dated 26.10.2005 ought to have been complied with in letter

and spirit. Thereafter, the Petitioner approached the Tribunal by filing O.A. No. 1837/2015. The said Original Application was initially dismissed on 31.05.2016. However, the said order was set aside by this Court in W.P.(C) No. 6164/2016, and the matter was remanded to the Tribunal for fresh consideration.

10. Upon remand, the Tribunal, by the Impugned Order, dismissed

the Original Application, inter alia holding that the Petitioner has no vested right to seek regularization. Aggrieved thereby, the Petitioner has filed the present Writ Petition. Signing Date:01.04.2026 Page 4 of 13 CONTENTIONS OF THE PARTIES:

11. CONTENTIONS OF THE PETITIONER: 11.1. Learned counsel for the Petitioner submitted that the Impugned

Order passed by the Tribunal is wholly unsustainable in law and

contended that this Court, vide judgment dated 26.10.2005 passed in W.P.(C) No. 11774/2004, had categorically held that the Respondents had acted in a discriminatory manner in denying the Petitioner re-engagement and parity of treatment with similarly situated employees, namely Sh. Naresh Kumar and Smt. Guddi. It was submitted that the said judgment had attained finality and was binding upon the Respondents.

11.2. It was further contended that despite the aforesaid directions, the Respondents failed to extend to the Petitioner the same treatment as was granted to Sh. Naresh Kumar and Smt. Guddi, inasmuch as although the Petitioner was re-engaged pursuant to the said judgment, he was not granted the consequential benefit of regularisation, which had been extended to the aforesaid employees. It was urged that once this Court had directed grant of same treatment, the Respondents were under a legal obligation to extend all consequential benefits, including regularisation, particularly when such benefit had been extended to similarly situated employees.

11.3. It was further contended that the Tribunal erred in overlooking the fact that the rejection of the Petitioner's claim vide communication dated 13.06.2013 had given rise to a fresh cause of action, as was expressly observed by this Court

while dismissing Contempt Case (C) Signing Date:01.04.2026 Page 5 of 13 No. 740/2013 vide order dated 14.10.2014. It was submitted that the Tribunal, therefore, ought to have examined the Petitioners claim independently on merits, rather than denying relief on the ground that no right to regularisation exists.

11.4. Learned counsel has further placed reliance upon the judgment

of the Honble Supreme Court in Jaggo v. Union of India¹, to contend that once similarly situated employees have been granted a particular benefit, denial of the same to the Petitioner would amount to hostile discrimination and would be violative of Articles 14 and 16 of the Constitution of India.

12. Contentions of the Respondents:

12.1. Per contra, learned counsel for the Respondents supported the Impugned Order and contended that the Petitioner, being a casual labourer, does not possess any vested or enforceable right to seek regularisation. Reliance was placed upon the judgment of the Honble Supreme Court in Secretary State of Karnataka v. Uma Devi², wherein it has been held that regularisation of casual, temporary or ad hoc employees dehors the constitutional scheme of public employment is impermissible.

12.2. It was further submitted that mere continuation of the Petitioner in service, even pursuant to judicial orders, would not confer any right to claim regularisation. It was contended that the Petitioners engagement was not in accordance with the prescribed recruitment rules and, therefore, no direction for regularisation could be issued.

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12.3. It was also contended that the directions issued by this Court in the judgment dated 26.10.2005 were limited to re-engagement and grant of treatment at par with similarly situated employees, and cannot be construed as a direction for regularisation. It was submitted that the Respondents have duly complied with the said judgment by re- engaging the Petitioner and treating him as a full-time casual labourer.

ISSUES FOR DETERMINATION:

13. In view of the rival submissions advanced on behalf of the parties, the following issues arise for consideration before this Court:

I. Whether, in light of the judgment dated 26.10.2005 passed by this Court in W.P.(C) No. 11774/2004, the Respondents were under a legal obligation to grant to the Petitioner the same treatment as extended to Sh. Naresh Kumar and Smt. Guddi, including the benefit of regularisation? II. Whether the failure of the Respondents to extend the benefit of regularisation to the Petitioner, despite extending the same to similarly situated employees, amounts to hostile discrimination in violation of Articles 14 and 16 of the Constitution of India? III. Whether the claim of the Petitioner for regularisation is liable to be rejected in view of the law laid down by the Honble Supreme Court in Uma Devi (supra) and other subsequent decisions governing regularisation of casual/temporary employees?

IV. Whether the Tribunal, while passing the Impugned Order dated 05.09.2022, failed to properly appreciate the binding effect and scope Signing Date:01.04.2026 Page 7 of 13 of the directions issued by this Court in the earlier round of litigation?

V. Whether, in the facts and circumstances of the present case, the Petitioner is entitled to any relief, and if so, to what extent? ANALYSIS & FINDINGS:

14. This Court has considered the submissions advanced by the learned counsel for the parties and carefully perused the material on record.

15. At the outset, it is required to be noted that the Tribunal has

dismissed the Original Application primarily by placing reliance upon the judgments of the Honble Supreme Court in Uma Devi (supra), BSNL Jammu v. Teja Singh³, and Official Liquidator v. Dayanand & Others⁴ to hold that a casual or temporary employee does not possess any vested right to seek regularisation.

16. While there can be no quarrel with the proposition of law laid

down in the aforesaid judgments, the controversy in the present case does not arise in a vacuum. The claim of the Petitioner is inextricably intertwined with, and flows from, a prior binding adjudication rendered by this Court inter partes. The applicability of the aforesaid precedents must, therefore, be examined in that backdrop.

Re: Issue Nos. I & IV- (Binding effect of judgment dated 26.10.2005 and error of the Tribunal) Civil Appeal 292/2009 decided on 16.01.2009

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17. Issue Nos. I and IV, being interconnected, are taken up together.

It is an admitted position on record that the Petitioner had earlier approached this Court by way of W.P.(C) No. 11774/2004, wherein a specific grievance of discriminatory treatment vis--vis similarly situated employees, namely Sh. Naresh Kumar and Smt. Guddi, was raised. This Court, after considering the factual matrix in detail, had unequivocally held that the Respondents had acted in a discriminatory manner in denying the Petitioner re-engagement and parity of treatment. Consequently, a positive direction was issued to the Respondents to: offer a suitable post to the petitioner and grant the same treatment as was given to Sh. Naresh Kumar and Smt. Guddi

18. The aforesaid direction is of considerable significance. The

expression same treatment employed by this Court cannot be construed in a narrow or truncated manner. Rather, it necessarily encompasses all consequential benefits which had been extended to the said employees, including, where applicable, the benefit of regularisation. It is not the case of the Respondents that the aforesaid

judgment dated 26.10.2005 was ever challenged before a higher

forum. The said judgment has, therefore, attained finality and is binding upon the parties.

19. Once a judicial determination inter partes has attained finality

and contains a positive direction, the same is required to be implemented in its true letter and spirit. The Respondents could not have selectively complied with the judgment by re-engaging the Petitioner while simultaneously denying him the consequential benefits which formed an integral part of the direction. Signing Date:01.04.2026 Page 9 of 13

20. In the considered view of this Court, the Tribunal has

fundamentally erred in proceeding to adjudicate the Petitioners claim as if it were a fresh claim for regularisation, divorced from the binding effect of the earlier judgment dated 26.10.2005. The Tribunal failed to appreciate that the issue of parity of treatment between the Petitioner and the aforesaid similarly situated employees had already been conclusively determined by this Court. Once such a determination had been rendered, it was not open to the Tribunal to reopen the issue by invoking general principles governing regularisation.

21. The reliance placed upon Uma Devi (supra) and other decisions, though correct in the abstract, was wholly misplaced in the peculiar

facts of the present case, as such precedents cannot be invoked to

defeat a binding inter partes direction issued by a competent Court.

22. Accordingly, Issue Nos. I and IV are answered in favour of the Petitioner. Re: Issue No. II (Whether denial amounts to hostile discrimination)

23. The next question which arises is whether the denial of regularisation to the Petitioner, despite grant of the same to similarly situated employees, amounts to hostile discrimination.

24. It is not in dispute that the employees with whom parity was

directed, namely Sh. Naresh Kumar and Smt. Guddi, were in fact extended the benefit of regularisation. As noticed from the record, the services of Sh. Naresh Kumar were regularised on 12.02.2004, and Smt. Guddi was also regularised. It is further not in dispute that the Petitioner was placed in the same seniority framework and was, in

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fact, senior to Sh. Naresh Kumar. Despite this, the Petitioner was initially denied re-engagement and, even after re-engagement pursuant to judicial directions, was denied regularisation. In such circumstances, denial of the same benefit to the Petitioner, despite a specific judicial direction to treat him at par with the aforesaid employees, cannot be sustained.

25. The Honble Supreme Court, in Jaggo (supra), has recognised

that where similarly situated employees are treated differently without any rational basis, and particularly where such disparity persists over a prolonged period, the Court would be justified in issuing appropriate directions to remedy the discrimination.

26. In the present case, no intelligible differentia or rational

justification has been placed on record by the Respondents to justify the differential treatment. The continued denial of regularisation to the Petitioner, despite a specific judicial direction and despite extension of such benefit to similarly situated employees, clearly constitutes hostile discrimination.

27. Issue No. II is, accordingly, answered in favour of the Petitioner. Re: Issue No. III (Applicability of Uma Devi and allied judgments)

28. The Respondents have placed heavy reliance on the judgment in

Uma Devi (supra) to contend that no direction for regularisation can be issued. While the principle laid down in Uma Devi (supra) is well settled, the same cannot be applied in a mechanical manner so as to override binding judicial directions rendered inter partes. Signing Date:01.04.2026 Page 11 of 13

29. The present case is not one where the Court is being called upon

to direct regularisation in the absence of any prior adjudication. Rather, it is a case where a competent Court has already directed parity of treatment, which has attained finality. The enforcement of such a direction cannot be defeated by subsequently invoking general principles of law. Moreover, the present case also stands on an independent footing inasmuch as the Petitioner has continued in service for a substantial period post re-engagement, i.e., since the year 2006, and has rendered long and continuous service.

30. Issue No. III is, therefore, answered against the Respondents. Re: Issue No. V (Entitlement to relief)

31. It is also pertinent to note that it is not the case of the

Respondents that the Petitioner lacked eligibility or that his services were not required. On the contrary, the record indicates that pursuant to the

judgment of this Court, the Petitioner was re-engaged in the year 2006 and has continued in service thereafter. The Petitioner has thus rendered continuous service for a substantial period of time post re-engagement, which, coupled with the admitted discriminatory treatment, reinforces his claim for parity.

32. In view of the aforesaid discussion, this Court is of the considered opinion that:

i. The judgment dated 26.10.2005 created a binding obligation upon the Respondents to extend parity of treatment to the Petitioner;

ii. The Respondents failed to comply with the said judgment in its true spirit by denying regularisation; iii. The Tribunal erred in overlooking the binding nature of the said judgment; and iv. The continued denial of regularisation amounts to impermissible discrimination.

CONCLUSION:

33. In view of the aforesaid discussion, the present Petition is allowed. The Impugned Order is hereby set aside.

34. The Respondents are directed to regularise the services of the

Petitioner at par with Sh. Naresh Kumar and Smt. Guddi, within a period of three months from the date of this judgment, with all consequential benefits, as admissible in law.

35. Accordingly, the present Petition stands disposed of in the aforesaid terms.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

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