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WP-40861-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE
HON'BLE SHRI JUSTICE VISHAL DHAGAT

WRIT PETITION No. 40861 of 2025

DR.KAMAL PRATAP SINGH AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

*Shri Dr. Colin Gonsalves - Senior Advocate (through video conference)
Shri Devansh Verma - Advocate and Ms. Hetvi Patel - Advocate and Shri Pai
appeared for petitioner.*

Shri Anil Kumar Dwivedi - Advocate for the respondent.

Shri Ved Prakash Tiwari - Government Advocate for the State.

Shri Swapnil Ganguly - Deputy Advocate General for the respondent.
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Reserved on : 15.01.2026

Passed on : 12.03.2026
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*This petition having been heard and reserved for orders, coming
pronouncement this day, the Court pronounced the following:*

ORDER

Petitioners had filed this petition under Article 226 of the Constitution making a prayer to issue writ to respondent No.1 to absorb and regularize petitioners as Assistant Professor in the State w.e.f. their initial date of commencement of employment. Prayer is also made to grant them all consequential statutory benefits. It is also prayed to reinstate petitioners affected by orders declaring them



fallen out. They shall be paid full back wages and services be treated to be c
Additionally advertisement issued by respondent No.2 at Annexure-
appointment of regular Assistant Professors may be quashed.

2. Learned Senior Counsel appearing for the petitioners submitted contractual Assistant Professors are seeking regularization by this writ petition. Petitioners are working on sanctioned and vacant post of contractual Assistant Professors as Teacher, Officer and Librarian for last two decades. Petitioners are called guest faculty. The actual nature of work of petitioners is akin to regular Assistant Professor. They possess all educational qualification as required by UGC norms. Initial appointment was made between 1996 and 2015. Thereafter, they are continuously working with Government Colleges throughout the State. Petitioners were appointed pursuant to advertisement issued periodically by department of higher education. They underwent selection process and thereafter, they were issued formal letters of engagement. Engagement of petitioners are regulated by circular of State Government dated 17.12.2019 and policy dated 05.10.2023. As per said circular, petitioners must possess minimum educational qualification as stipulated by University Grants Commission and their candidature is to be considered only against sanctioned and approved vacancies. There are 12,000 sanctioned post out of which 4500 post are filled with contractual faculties and there are 6298 vacant position. Regular recruitment is going on for 2100 posts. Petitioners are performing regular and substantive work and their work is indistinguishable from regularly appointed faculty. Petitioners do class room teaching, syllabus planning, evaluation of performance and supervision of examinations and mentorship. They are performing administrative and institutional responsibilities and functions as C



charge, Examination Controller, Center In-charge, Assistant Center In-charge, Accreditation In-charge, Admission Committee In-charge, Coordinators and C and Academic and Administrative Committee.

3. Petitioners are being paid meager wages i.e fixed honorarium of Rs. per month i.e. Rs.2000/- per day without increment, dearness allowance c benefit. Petitioners were not paid honorarium on national holidays. They are to coercive and arbitrary conditions and their constitutional rights under Article and 21 are infringed. Petitioners were engaged for 89 days and services were terminated and thereafter, reappointed after fresh selection process. Annual re and merit list is continued to be issued. Experience beyond five years considered for merit purpose. Each year there is fresh assessment.

4. Respondents are now doing fresh regular recruitment on vacant and s post of Assistant Professor, Sports Officer and Librarian. Same will jeopardies petitioners. Several petitioners had lost their job and new appointees are beir Regular employees are to be transferred at various positions which wi petitioners jobless. It is submitted that many of the petitioners will cross upper for recruitment in year 2024, despite there being age relaxation. Petitioner w able to take up fresh recruitment test after 10-30 years of service. It is subn Apex Court in case of *Secretary State of Karnataka Vs. Umadevi reported in SCC 1* categorically held that State should not be permitted to depart from nc and indulge in temporary employment. State is bound to make proper an recruitment. By virtue of law laid down in case of *Umadevi (supra)*, petiti entitled to regularization as they had completed 10 years of service ever passing of said judgment.



5. Learned Senior Counsel appearing for petitioners has also placed reliance on judgment passed by Apex Court in case of *Jaggo Vs. Union of India* reported in *SCC OnLine SC 3826*. It submitted that denial of regularization amounts to injustice. Reliance is also placed upon judgment passed in case of *Somesh Thakur Vs. Vice Chancellor, H.N.B. Garhwal University and others* reported in *(2021) 116 SCC OnLine SC 3826*. It was held in said case that employees appointed in accordance with rules and discharging duty against sanctioned post must be treated as regular faculty. Respondents' refusal to extend the benefit of regularization to petitioners amounts to hostile discriminating, arbitrariness and violation of principle of equal protection of law. On view of aforesaid submission on fact and law senior counsel appearing for petitioners made a prayer to issue writ to restrain authorities to regularize petitioners in service and those who were declared irregular may be continued in service with full back wages. Petitioners shall be entitled to consequential benefits arising therefrom.

6. Learned Government Advocate appearing for State submitted that recruitment of Assistant Professors is governed by MP Educational Service (Collegiate Recruitment, 1990). Said rules do not contain any provision for regularization of guest faculty. Policy for engagement of guest faculty dated 05.10.2023 is under consideration after approval of Cabinet. In said policy, it was clearly provided in Clause-1.1 that guest faculties are hired against sanctioned vacant post of Assistant Professor, Associate Professor, Sports Officers, Librarian. Clause 1.2 states that invitation to guest faculty and such guest faculty will not be considered as public servant as per law neither they would be considered under established



colleges. Position of guest faculty is only dependent on requirement of extra workload, if there is any. Policy further lays down that in case of transfer recruitment, guest faculty working against sanctioned and vacant post would be continued and will be fallen out. Fallen out guest faculty can be invited on basis of seniority for vacant seats. As per letter of UGC dated 28.01.2019, guest faculty should be given benefit of allowances, pension, gratuity and leave etc. as admissible to regular teachers. Invitation to petitioners is absolutely temporary and cannot be part of regular recruitment process. Rule 6 of Rules of 1990 provides method of recruitment which is by direct recruitment by competitive examination/selection and transfer of a person who holds in substantive capacity such post in service or promotion and absorption of member of service. There is no provision for regularization as per Rule and same cannot be provided outside the law.

7. It is also submitted by learned Government Advocate appearing for the State/respondents that guest faculty has been provided relief of maximum age weightage of four marks per year with maximum marks of 20. State Government has also provided 25% horizontal reservation to guest faculty. In advertisement for the year 2017, 2022, 2024 to recruit eligible teaching faculties in colleges, advertisement weightage like age relaxation was provided. In case of *J&K Service Commission etc. Vs. Dr. Narendra Mohan and others* reported in [1993] 3 S.C.R. Apex Court held that once statutory rule is made, appointment is to be made only in accordance with said rules. Selection according to rules by properly constituted commission and fitness for appointment assures fairness in selection. Appointment made contrary to rule is arbitrary. No other methods of selection are directed and same will be unconstitutional and unlawful. Temporary employees



at liberty to compete with regular selection and if they are not successful then to give way to regularly selected candidates. It is submitted that Division Bench No.8947/2016 directed that guest faculty shall not be substituted by another faculty but have to be replaced by regular appointments. Court further held in No.6159/2022 that it is only just and necessary that petitioners continue to employ guest faculty teachers until and unless regular appointments are made. Similar order was passed in WP No.11080/2025, WP No.6159/2022 and WP No.8947/2016. Court in WP No.1978/2025 vide order dated 10.07.2025 held that colleges may not be run by guest faculty only. Many administrative functions are to be performed in colleges and can only be done by regular faculty. Court in WP No.11080/2025 vide order dated 13.10.2025 directed that guest faculty those who are still working will be permitted to continue to work till appointment of permanent and regular employee either by recruitment or transfer is made. In WP No.2307/2024 vide order dated 28.08.2025 it was held that guest faculty are contractual employees appointed for each year. They cannot claim continuance of service as matter of right. It is submitted that interim relief prayed for by guest faculty not to post regular appointees in the interim was declined by Court. Respondents have also placed reliance on judgment of Apex Court in case of *Umadevi (supra)* and submitted that prayer for regularization cannot be accepted. In view of aforesaid submission, learned Government Advocate made a prayer for dismissal of writ petitions.

8. Heard the counsel for the parties.

9. Questions for consideration before this Court are as under:-

- (i) Whether right had accrued in favour of petitioner for regularization of guest faculty as they were appointed on sanctioned and vacant post according to Rule 10 of the



long period of time?

(ii) Whether petitioners who were declared to be fallen out ha right for reinstatement with full back wages and continuity of service?

(iii) Whether advertisement issued by respondents is liable to quashed as same is against constitutional rights of petitioners?

10. Petitioners were engaged pursuant to circular/policy issued Government dated 05.10.2023. As per aforesaid circular, guest faculty appointed on post of Professor, Assistant Professor, Associate Professor, Sport and Librarian on vacant and sanctioned post. Minimum educational qualification required by UGC is the benchmark for engagement. They were not under establishment and public servant. They have to clear NET, MP SLAT or holder degree. Guest faculties who were working are to be given benefit of their experience. Maximum marks which can be allotted for experience is 20. Candidates of Scheduled Caste (SC), Scheduled Tribe (ST), Other Backward Class (OBC), Economically Weaker Section (EWS) were granted 10% extra marks on Post Graduate level. Similarly physically challenged were also granted 10% extra marks. Thereafter a list was prepared. Guest faculty who is elder is to be treated senior if two candidates having equal marks. If regular appointments are made on the sanctioned appointment post then guest faculty will not work against said post in future. After appointment filling up a post by transfer or posting then guest faculty is to be declared fallen certificate in respect of same is to be issued to him. Such candidate is eligible to nearest colleges if posts are vacant. Guest faculty is to be paid maximum honorarium of Rs.50,000/- per month. They had facility of leave and their appointment was transferable in nature. Horizontal reservation of 25% is to be provided



faculty in examination conducted by MP Public Service Commission.

11. Regular appointment is to be made on sanctioned and vacant accordance with MP Educational Services (Collegiate Branch) Recruitment 1990. Selection is to be made by MP Public Service Commission by competitive examination. Method of recruitment is by competitive examination, transfer who holds post on substantive capacity, by promotion of member of service or absorption. There is provision for 16% and 20% reservation for SC and ST 14% for OBC and 6% for physically handicapped. Guest faculty is to be given in maximum age limit up to actual period rendered by them as guest faculty additional weightage of 4% marks for each completed years of experience : maximum of 20% marks. Recruitment by absorption was available when colleges are taken over by State Government.

12. As per Rule-6 Schedule-II, appointment on the post of Assistant Professor to be made 100% by direct recruitment and for post of Librarian and Sports Officer 90% by direct recruitment and 10% by promotion. Minimum age limit prescribed per Rule-8 is 21 years for Assistant Professor, Sports Officer and Librarian and age limit is 40 years for Assistant Professor, Sports Officer and Librarian. Relaxation in age according to rules are applicable.

13. On going through the circular of the State Government for engagement of guest faculty and rules enacted for regular recruitment, it is found that application for guest faculty is invited from candidates who are domicile of State of Madhya Pradesh. Candidate of far off Districts and other States do not apply and recruitment is parochial in nature. However, there is no such bar of domicile when advertisement for direct recruitment is to be made by Public Service Commission. Examination



and National level. Minimum and maximum age limit is prescribed in R relaxation of upper age limit permissible under the Rule. For guest faculty, a who had not attained the age of 65 years can apply. Education qualification faculty and for regular recruitment are same. No reservation is provided while guest faculty and only additional marks are given, however, there is specific p for reservation when recruitment is made in accordance with rules. Further, for guest faculty is to be made on basis of marks obtained in post graduation marks which are granted if a person belongs to a particular category. There is competitive examination and their seniority is calculated on the basis of marks and age of candidates and they are called in accordance with seniority for eng Regular recruitment is purely on merit and have Pan India character.

14. On comparison of Rules made for engagement of guest faculty a made for regular appointment, it is found that guest faculties are not er accordance with Rules made for regular recruitment. Candidate up to 65 apply for guest faculty (aged when one retires from service), selection is on merits in post graduation and not open competitive examination, there is no re for SC, ST, OBC and physically challenged. Granting additional percentage o a person belongs to category in recruitment of guest faculty does not s constitutional mandate of reservation of seats in appointment to public serv domicile of Madhya Pradesh can apply for guest faculty and other candidat apply which makes nature of appointment more parochial and not Pan India. engagement of guest faculty is made for one academic session on sancti vacant post but same are not in accordance with Educational Services ((Branch) Recruitment Rules, 1990. Some of the petitioners were engaged



period of time may be one or two decades but at the initial stage of advertisement made clear to them that they were not the part of the establishment and are servants and no benefit will accrue to them. Same is not the case when Appointment was granted benefit of length of service for regularization as there was no stipulation in advertisement and candidates were not aware that their appointment was on temporary basis. Such is not the case here. From day one guest faculties were aware that they are engaged for one academic year.

15. In view of same, it cannot be said that right of regularization has a claim of guest faculty since they were not appointed in accordance with Rule of 1990. From day one they were made aware through advertisement that their appointment is for one academic year. Only engaging them on sanctioned and vacant post with qualification being equivalent to that of regular appointee will not give them a claim for regularization since their engagement was not in accordance with Rules. In the same, *first question* is answered in *negative*.

16. As has been decided above that guest faculty cannot be equated to regular incumbent as method of recruitment, selection process, reservation, etc., are different. As per Rules, if regular recruitment by appointment, transfer or promotion is made on the post then guest faculty working against the said post is to be fallen out. No illegality can be found in such a Rule of fallen out. Temporary employees are not being replaced by another set of temporary employee but regular incumbent is being appointed in said place. Further, there is no bar or restriction on guest faculty to compete in examination and be declared successful in it. The claim is protected by granting them additional mark over and above obtained in competitive examination for their experience as a guest faculty. Further, fallen out guest faculty



an option to apply in other nearby colleges where sanction seats are vacant. In the same, no arbitrariness or illegality is found in the Rule of fallen out. Such persons cannot claim reinstatement and continuity in service though, they are at liberty to appear for regular competitive examination or to apply for other vacant post available in nearby colleges. *Second question* is also answered in *negative*.

17. Petitioners are claiming parity of regularization on basis of judgment in case of *Umadevi (supra)* which was relied upon in various subsequent judgments. Reliance is also placed in case of *Jaggo (supra)* and *Somesh Thapliyal (supra)* for appointment on post of Professor, Associate Professor and Assistant Professors. Officers and Librarian cannot be compared with a daily wager. Qualification requirement of work is entirely different for a daily wager and Professor. Professions involved in higher education and they are to be highly qualified, therefore, principle of equity in case of *Umadevi (supra)* will not squarely apply in present case. If regular recruitment rules and methods of engagement of guest faculty are compared minutely and thereafter, decision is to be taken. In aforesaid comparison, it has been found that method of recruitment of guest faculty is different from incumbent.

18. Issue No.1 and 2 have been decided against petitioner. Government is making regular appointment on the post of Assistant Professor, Sports Teacher and Librarian. One set of temporary employees is not sought to be replaced by appointment of temporary employees. Supreme Court in number of cases has held that Government shall not ignore regular recruitment in accordance with Rule 13. Government is going ahead with regular recruitment. Petitioners do not have any right to challenge the advertisement on grounds that they are working as guest faculty.



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sanctioned and vacant post for long period of time. In view of above, *third iss* decided in *negative*.

19. Writ petition is *dismissed*.

(VISHAL DHAGAT)
JUDGE

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