

ARTICLES

REGULARISATION OF DAILY WAGE EMPLOYEES: A STUDY

By

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The problem of regularization of daily wage employees has become a burning problem in many of the States. In Telangana, attempts made by the executive to regularize the services of daily wage employees pursuant to electoral promise made by the party in power, is strongly resisted by the students on the ground that such regularization would reprove their chances of getting employment. However, when we look at the problem of thousands of daily wage employees working for a few decades, one has to feel that the right to livelihood is deprived without any form of social security to these employees.

2. The Supreme Court in *Uma Devi's* case¹ has ruled: "Irregular appointment of employees, who have worked for more than 10 years shall be considered on merits" and are entitled to regularization. There are attempts made in the case of irregular appointees to deprive them the benefit of regularization, through illegal appointees are not entitled for the benefit of regularization. Illegal appointments, if regularized would result in the consequence of conferring a benefit to which they are not entitled.

3. The difference between "Illegal appointments" and those which are irregular has been fully elucidated in *M.L. Kesari's* case² thus:—

- (i) As an exception to the general rule laid down in *Uma Devi's* case (supra) with regard to regularization if the following conditions are fulfilled:—
 - (a) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit of the interim order of any Court or Tribunal. This means that the State or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for 10 or more years.
 - (b) The appointment should not be illegal.
 - (i) Illegal appointments are those where appointments were made or continued not against sanctioned posts.
 - (ii) The persons appointed do not possess the prescribed minimum qualifications.

In other appointments made not against sanctioned posts of persons who do not possess the minimum qualifications prescribed are 'ex-facie' illegal. A general condition may also be added to the effect that the appointments are contrary to law or in violation of law. Further they must have been continued voluntarily by the employees and not under order of any Court or Tribunal.

On the other hand, irregular appointments are those where the employee possessed the prescribed qualification and working against sanctioned posts but selected without undergoing the process of open competitive selection, they are treated as 'irregular'.

1. *Secretary, State of Karnataka and others v. Uma Devi*, 2006 (109) FLR 826 (SC).

