

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

[3488]

**MONDAY, THE THIRTIETH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN**

WRIT APPEAL NO: 980 OF 2025

Writ Appeal under clause 15 of the Letters Patent Preferred Against Order
Dated 17/12/2024 in WP.No.4986 of 2019 on the file of the High Court.

Between:

1. The National Insurance Company Ltd, Represented by its Chairman cum Managing Director Middleton Street No. 7, Karkana Estate, West Bengal - 700071.
2. The Chairman cum Managing Director, The National Insurance Company Ltd. Middleton Street No. 7, Karkana Estate, West Bengal - 700071.
3. The General Manager, Personnel Department, The National Insurance Company Ltd, Middleton Street No. 7, Karkana Estate, West Bengal - 700071.
4. The General Manager, Estate and Establishment Department Middleton Street No. 7, Karkana Estate, West Bengal - 700071.
5. The Chief Regional Manager, O/o 5-8-568, 1st Floor, Jubilee Building, Nampally Station Road, Abids, Hyderabad - 500001.
6. The Regional Manager, Personnel Department O/o 5-8-568, 1st Floor, Jubilee Building, Nampally Station Road, Abids, Hyderabad - 500001
7. The Regional Manager, Estate and Establishment Department O/o 5-8-568, 1st Floor, Jubilee Building, Nampally Station Road, Abids, Hyderabad - 500001.

**...APPELLANTS/
RESPONDENTS**

AND

N.Balaiah, S/o Shivarajaiah, Care Taker of Guest House, National Insurance Company Limited, Hyderabad Aged about 40 years, R/o. 5-8-568, 1St floor, Jubilee Building, Hyderabad - 500001. Hyderabad District.

...RESPONDENT/PETITIONER

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay of all further proceedings in pursuance of judgment dated 17/12/2024 in W.P. No. 4986 of 2019 delivered by Honourable Single Bench pending disposal of the appeal.

Counsel for the Appellants: SRI D.RAMAKRISHNA REDDY
Counsel for the Respondent: SRI G.ALLABAKASH

The Court made the following: JUDGMENT

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND**

THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT APPEAL No.980 of 2025

DATE: 30.03.2026

Between:

The National Insurance Company Limited
Represented by its Chairman-cum-Managing Director,
West Bengal and 6 others

....Appellants

And

N.Balaiah

....Respondent

JUDGMENT

Heard Sri D.Rama Krishna Reddy, learned counsel for the appellants and Sri G.Allabakash, learned counsel for the respondent and perused the record.

2. This writ appeal, preferred under Clause 15 of the Letters Patent, assails the order dated 17.12.2024 passed by the learned Single Judge in W.P.No.4986 of 2019. By the said order, the learned Single Judge allowed the writ petition filed by the respondent (writ petitioner) and directed the appellants to regularize the services of the respondent as sub-staff or in any such post carrying the same scale of pay as prevalent in 2003, with all attendant benefits.

Factual matrix (in brief)

3. As per the respondent, in the year 2003, the appellants issued a newspaper notification inviting applications for the posts of Caretaker and Helpers, pursuant to which the respondent participated in the selection process comprising an interview and a practical test, and was declared successful. It is respondent's specific case that notwithstanding such selection, no formal order of appointment was issued; instead, the appellants caused an agreement dated 13.10.2003 to be executed, which arrangement was periodically renewed from time to time.

4. The record discloses that the relationship between the parties was governed by a series of written agreements executed at different points of time. The particulars of such agreements brought on record are tabulated hereinbelow for ready reference:

S.No.	Date of Agreement	Period of Contract
1.	01.02.2011	13.10.2010 to 12.10.2011
2.	01.02.2012	13.10.2011 to 12.10.2012
3.	06.02.2013	13.10.2012 to 12.10.2013
4.	06.06.2014	01.04.2014 to 31.03.2015
5.	21.02.2018	01.11.2017 to 31.10.2018

5. A perusal of the aforesaid agreements reveals that the arrangement between the parties was expressly characterized as one pertaining to "housekeeping and maintenance" of a transit flat/guest house belonging to the appellants. The respondent was designated as "Caretaker" and was entrusted with duties *inter alia* including

maintenance and cleaning of the premises, attending to the needs of occupants/guests, collection of lodging charges, and maintenance of a register of guests.

6. Significantly, the terms and conditions embodied in the said agreements, in clear and unambiguous language, indicate the nature of the arrangement and may be summarized as follows:

- a. The respondent was permitted to run ancillary services such as a canteen and laundry for the benefit of guests, with the stipulation that the profits accruing therefrom would be retained exclusively by him.
- b. The arrangement was terminable at the instance of either party by giving one month's prior notice, thereby indicating its contractual and non-permanent character.
- c. The agreements did not prescribe any pay scale, increments, working hours, maintenance of attendance, or disciplinary framework, as would ordinarily be applicable to regular employees.
- d. There was no provision for deduction or contribution towards Provident Fund or other statutory benefits, which are ordinarily mandatory in the case of regular employment.
- e. The agreements did not contemplate or prescribe any age of superannuation.

7. The appellants, on 01.03.2019, issued a notification inviting applications from outsourcing agencies for supply of manpower, including for engagement to the position of Guest House Caretaker. Aggrieved by the said notification, the respondent approached this

Court by filing the underlying writ petition seeking regularization of his services.

8. The learned Single Judge, placing reliance upon the order rendered in W.P.No.20009 of 2006, allowed the writ petition and issued a direction to the appellants to regularize the services of the respondent in the cadre of sub-staff or in an equivalent post with effect from the year 2003. Aggrieved by the said order, the appellants have preferred the present writ appeal.

Submissions on behalf of the appellants

9. Learned counsel for the appellants, assailed the impugned order and has advanced submissions as under:

- i) That the agreements entered into between the parties are in the nature of commercial contract for housekeeping and maintenance of the guest house, and do not give rise to any relationship of employer and employee. The respondent was not appointed pursuant to any regular recruitment process in accordance with law, but was merely engaged on a contract for managing the guest house.
- ii) That the respondent's assertion that he was selected through an interview and practical test in the year 2003 is wholly unsubstantiated by any documentary evidence. There is neither an appointment order nor a selection list, nor any material evidencing issuance of a notification or advertisement in the year 2003. On the contrary, the only documents placed on

record are the agreements executed between the parties, which unequivocally recorded that the respondent had "offered to take up the work of housekeeping and maintenance."

- iii) That the terms of the agreements explicitly permitted the respondent to run ancillary services such as a canteen and laundry for the benefit of the occupants of the guest house and to retain the profits arising therefrom. This is a clear indicator of the commercial and contractual nature of the arrangement, as opposed to a contract of employment. Thus, the respondent was deriving income not only from the fixed monthly consideration but also from such independent commercial activities.
- iv) That the agreements do not prescribe any of the attributes ordinarily associated with regular employment, such as pay scales, annual increments, fixed working hours, maintenance of attendance registers, or disciplinary control. No deductions towards Provident Fund or other statutory benefits were made, and no age of superannuation was stipulated. These factors, taken cumulatively, negate the existence of an employer-employee relationship.
- v) That the respondent had specifically sought regularization in the capacity of "Caretaker" of the guest house. However, the learned Single Judge has directed regularization as "sub-staff or in any such post carrying the same scale in 2003," which

amounts to granting relief beyond the pleadings and in respect of a post entirely distinct in nature, without any finding that the respondent was ever appointed or eligible for such a post.

- vi) That the respondent continued under successive contractual arrangements from 2003 till 2018 without raising any grievance. The challenge to the notification dated 01.03.2019 was mounted only after an inordinate lapse of more than 15 years. Such unexplained delay and acquiescence disentitle the respondent to any discretionary or equitable relief under Article 226 of the Constitution of India.
- vii) That the dispute, being essentially contractual in nature, involves seriously disputed questions of fact, particularly with regard to the existence or otherwise of an employer-employee relationship. Such questions would require adjudication on evidence and are not amenable to writ jurisdiction under Article 226 of the Constitution of India.

10. In support of the aforesaid submissions, reliance is placed on the following judgments:

- i. *Secretary, State of Karnataka v. Umadevi*¹
- ii. *Hindustan Aeronautics Ltd. v. Dan Bahadur Singh*²
- iii. *Basant Kumar Mohanty v. State of Orissa*³.

¹ (2006) 4 SCC 1

² (2007) 6 SCC 207

³ (1992) 111 LJ 190 ORI

Submissions on behalf of the respondent

11. Learned counsel for the respondent has supported the impugned order and has advanced his submissions as under:

- i) That the respondent has been discharging duties as a caretaker continuously for a period exceeding 15 years, with the arrangement being periodically renewed and a fixed monthly consideration being paid. Such long and uninterrupted service gives rise to a legitimate expectation of regularization.
- ii) That the respondent was functioning under the direct control and supervision of the officers of the appellants, and was even provided with a uniform, which is indicative of an employment relationship.
- iii) That tax was deducted at source from the amounts paid to the petitioner, and the TDS certificates (Form 16A) reflected such deduction under the head "Salary", thereby suggesting that the payments were treated as salary and not as contractual consideration.
- iv) The respondent asserts that his case falls within the ambit of the said exception in respect of cases where employees have continued for more than ten years without the intervention of Courts, laid down in *Umadevi's* case (supra 1) and thus warrants regularization.

12. We have taken note of the respective contentions urged and perused the material on record.

Consideration by this Court

13. A perusal of the record reveals that the parties entered into a series of written agreements spanning the period from 2011 to 2018. Each of these documents is expressly styled as an "Agreement" and describes the petitioner as the "Caretaker" or the "Second Party". The agreements are bilateral in character, duly executed by both parties and embody the essential elements of a valid contract, namely offer, acceptance, consideration and reciprocal obligations.

14. The respondent's contention that he was selected through an interview and practical test in the year 2003 is wholly unsubstantiated. There is no material placed on record in the nature of any advertisement, selection list, offer of appointment, or any other document evidencing a selection process. The only basis for such assertion is the averment made in the writ petition. In the absence of any corroborative evidence, such bald assertions cannot be accepted as proof of a valid or regular selection.

15. It is also pertinent to note that the agreements themselves do not record that the respondent was "selected" or "appointed." On the contrary, they explicitly state that the respondent had "offered to take up the work of housekeeping and maintenance." Such language, in our considered view, is clearly indicative of a contractual engagement and militates against the existence of a regular appointment to a post.

16. Further, one of the most significant features emerging from the agreements is Clause 19 of the agreement dated 21.02.2018, which permits the respondent to provide tea, coffee, breakfast, lunch and dinner to the occupants of the guesthouse at rates fixed by the appellants and to retain the charges so collected. In addition thereto, the respondent was permitted to run ancillary services such as a canteen and laundry within the guest house premises and to appropriate the profits arising therefrom.

17. It is to be noted that the said aspect envisaged under Clause 19 assumes considerable importance in determining the true nature of the relationship between the parties. Ordinarily, a person holding a regular post under an employer would not be permitted to carry on independent commercial activities within the employer's premises, much less retain the income generated therefrom during the course of such engagement. The express authorization granted under the agreements to undertake and profit from such commercial activities, in our considered view, is wholly inconsistent with the existence of a relationship of an employer and employee. On the contrary, it strongly indicates that the respondent was operating in the capacity of an independent contractor under a contract for service, rather than as an employee.

18. It is to be noted that a regular employee is ordinarily subject to the disciplinary control of the employer, is required to adhere to

prescribed working hours, maintain attendance, receive periodic increments, and is entitled to statutory benefits, such as, Provident Fund, besides being governed by a fixed age of superannuation. None of these essential attributes of a contract of service are discernible in the case of the petitioner.

19. At this juncture, it is appropriate to state the factors to demonstrate the absence of the essential *indicia* of an employer-employee relationship and on the contrary, reinforce the conclusion that the engagement of the respondent was purely contractual in nature, which are as under:

- i. The respondent has himself admitted, in his affidavit, that no attendance register was maintained. Though he asserts that he remained present "throughout the day," there exists no contemporaneous record or mechanism to verify such presence.
- ii. The agreements do not stipulate any fixed working hours. The nature of the respondent's engagement appears to be contingent upon the arrival and departure of guests, and in the absence of guests, no specific duties are shown to have been assigned.
- iii. The respondent was not governed by the National Insurance Company (Conduct, Discipline & Appeal) Rules, which are applicable to regular employees, thereby indicating the absence of disciplinary control characteristic of an employer-employee relationship.

iv. It is not in dispute that no deductions towards Provident Fund were made from the amounts paid to the respondent. Such non-compliance with statutory requirements, which are ordinarily mandatory in the case of regular employment, is a significant indicator militating against the existence of such a relationship.

v. The agreements do not prescribe any age of superannuation. The continuation of the respondent's engagement was dependent solely upon renewal of the contractual arrangement, even beyond the age of 60 years, which is clearly inconsistent with the concept of regular employment.

20. The respondent has placed reliance upon Form 16A (TDS certificate) to contend that the payments made to him were treated as "salary." However, it is to be noted that deduction of tax at source is not confined to payments arising out of a contract of employment alone. Under the provisions of Section 194C of the Income Tax Act, 1961, tax is liable to be deducted at source even in respect of payments made to contractors. The mere deduction of tax at source cannot, by itself, be determinative of the existence of an employer-employee relationship. Thus, the TDS certificates cannot be accorded undue significance so as to override the clear and unambiguous stipulations contained in the written agreements between the parties.

21. It is apposite to note that the learned Single Judge has allowed the writ petition primarily on the premise that the facts of the present

case are analogous to those obtaining in W.P.No.20009 of 2006. In the said case, it was specifically noted as under:

"It is undisputed that the petitioner has not signed the document which is in the nature of an agreement or contract."

This, in our considered view, constitutes a material and distinguishing feature, as in the instant case, the respondent does not dispute the execution of multiple agreements governing the terms of his engagement. On the contrary, the respondent's own affidavit in the writ petition in para 2 categorically states as under:

"The respondents instead of issuing appointment letter and prepared one agreement dated 13-10-2003 between me and the respondents upto 2014 thereafter no agreement between us and as of now no agreement between us."

The existence of such duly executed agreements fundamentally alters the factual matrix. A person who has voluntarily entered into a written contractual arrangement, received consideration thereunder, and simultaneously carried on ancillary commercial activities such as running a canteen and laundry, cannot subsequently be permitted to contend that the contract was illusory or a mere camouflage and that he was, in substance, an employee.

22. It is also brought to the notice of this Court that the appellants have preferred an appeal against the order in W.P.No.20009 of 2006, and that the said judgment has not attained finality. Be that as it may, it is trite that each case must turn on its own facts. In view of the material distinctions noticed hereinabove, the said judgment

cannot be pressed into service as a binding precedent in the present case.

23. It is relevant to note that the law governing regularization of irregular or contractual engagements is no longer *res integra* and stands authoritatively settled by the Constitution Bench of the Hon'ble Supreme Court in *Umadevi's* case (supra 1), wherein it has held as under:

36. While directing that appointments, temporary or casual, be regularized or made permanent, courts are swayed by the fact that the concerned person has worked for some time and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with eyes open. It may be true that he is not in a position to bargain -- not at arms length -- since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible.

(emphasis supplied)

24. In the case on hand, the respondent has failed to establish that his engagement was preceded by any lawful or regular selection process. The assertion that the respondent was selected through an interview and practical test in the year 2003 remains wholly unsubstantiated. There is no material placed on record in the form of any advertisement, selection list, or appointment order. In the absence of proof of a valid appointment, the claim for regularization cannot be sustained in law.

25. It is also to be noted that the respondent, in the writ petition, sought for regularization in the capacity of "Caretaker" of the guest house; however, the learned Single Judge has proceeded to direct the appellants to regularize the respondent "as sub-staff or in any such post carrying the same scale in 2003." We are constrained to observe that such a direction travels beyond the scope of the relief sought and is unsupported by any factual foundation on record, inasmuch as the respondent was neither appointed to, nor did he discharge the functions of, a member of the sub-staff cadre, the duties and responsibilities of which are distinct and governed by specific recruitment rules. A direction to absorb the respondent into a cadre for which he was neither selected nor found eligible amounts to conferring a benefit dehors the applicable recruitment framework and is legally unsustainable.

26. Further, the dispute arises out of a contractual arrangement, and the respondent's claim of an employer-employee relationship, being seriously disputed, involves questions of fact requiring evidence, which are not amenable to adjudication under Article 226 of the Constitution of India. The appropriate remedy would have been to approach the competent civil Court or the forum under the Industrial Disputes Act, 1947.

Conclusion

27. In view of the foregoing reasons, this Court is of the considered view that the engagement of the respondent was purely contractual in

nature and did not give rise to any employer-employee relationship. The respondent has failed to establish that his engagement was preceded by any regular selection process, and the material on record, including the terms of the agreements, clearly militates against any claim of regular employment.

28. Accordingly, this Writ Appeal is allowed. The impugned order dated 17.12.2024 passed by the learned Single Judge in W.P.No.4986 of 2019 is hereby set aside.

As a sequel, miscellaneous petitions, pending if any, stand closed. No costs.

SD/- K.SAILESHI
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Chairman cum Managing Director, National Insurance Company Ltd, Middleton Street No. 7, Karkana Estate, West Bengal - 700071.
2. The Chairman cum Managing Director, The National Insurance Company Ltd, Middleton Street No. 7, Karkana Estate, West Bengal - 700071.
3. The General Manager, Personnel Department, The National Insurance Company Ltd, Middleton Street No. 7, Karkana Estate, West Bengal - 700071.
4. The General Manager, Estate and Establishment Department Middleton Street No. 7, Karkana Estate, West Bengal - 700071.
5. The Chief Regional Manager, O/o 5-8-568, 1st Floor, Jubilee Building, Nampally Station Road, Abids, Hyderabad - 500001.
6. The Regional Manager, Personnel Department O/o 5-8-568, 1st Floor, Jubilee Building, Nampally Station Road, Abids, Hyderabad - 500001
7. The Regional Manager, Estate and Establishment Department O/o 5-8-568, 1st Floor, Jubilee Building, Nampally Station Road, Abids, Hyderabad - 500001.
8. One CC to SRI D.RAMAKRISHNA REDDY, Advocate [OPUC]
9. One CC to SRI G.ALLABAKASH, Advocate [OPUC]
10. Two CD Copies

PSK.
TKS

HIGH COURT

DATED:30/03/2026

JUDGMENT

WA.No.980 of 2025



**ALLOWING THE WRIT APPEAL
WITHOUT COSTS**

(12) NT
18/4/26