

ADHOC EMPLOYMENT IN GOVERNMENT SERVICES: LEGAL FRAMEWORK AND CHALLENGES OF REGULARISATION

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Abstract

The issue of adhoc employment and its regularization presents a significant challenge raising constitutional concerns regarding fair recruitment and equal opportunity. Ad hoc appointments, intended as temporary measures, frequently extend beyond their intended duration, leading to demands for regularization. This paper examines the legal framework governing adhoc employment, focusing on judicial interpretations and evolving policy considerations. The study highlights constitutional provisions, particularly Article 14 and 16, which mandate transparency and merit-based selection in public employment. It explores landmark rulings, including *State of Karnataka vs. Uma devi*, which reinforced strict adherence to formal recruitment processes, while acknowledging exceptions in cases of prolonged service in sanctioned posts. Additionally, the doctrine of legitimate expectation is analyzed in the context of adhoc employees claims for permanency. This research underscores the judiciary's efforts to balance administrative efficiency with constitutional integrity.

Key words: Adhoc employment, regularisation, Article 14&16, fair recruitment, legitimate expectation

I. Introduction

India, a welfare state, the government stands as the largest employer, responsible for providing public employment through a constitutionally prescribed system of fair and transparent selection. However, there have been occasions where individuals secured employment in government departments, public sector undertakings, and related institutions on an ad hoc or temporary basis, often bypassing the constitutionally prescribed recruitment procedures. This has given rise to legal and constitutional debates, particularly the entitlement of such employees to seek regularization of their employment.

Ad hoc appointments refer to engagements made for a specific task or limited duration without adhering to the standard recruitment framework. These appointments basically made on an urgent or temporary basis, without consulting the public service commissions or complying with recruitment rules. These

appointments are considered as temporary arrangements, but their continuation for longer period has led to increasing demands for regularization. Later, these demands become a matter of legal issue and subject to judicial review.

The regularization of ad hoc employees raises key constitutional issues, particularly Articles 14 and 16, which uphold the principles of equality and equal opportunity in public employment. The Supreme Court has consistently reiterated that appointments in public services must be conducted through a fair and open process to ensure equal access and merit-based selection for all qualified individuals. Permitting regularization without such due process is often criticized as promoting “backdoor entry”, thereby undermining constitutional values.

A landmark ruling in this regard is *State of Karnataka v. Umadevi* (2006), where the Supreme Court held that the regularization of appointments made against constitutional and

legal recruitment procedures is not permissible. Despite the stringent position adopted in Uma devi case, the judiciary has allowed limited exceptions, particularly in cases where individuals have served over extended periods in sanctioned posts and where sudden termination would result in undue hardship. Therefore, the regularization of ad hoc personnel involves a nuanced consideration balancing individual rights and expectations with the overarching principles of constitutional integrity and governance.

II. Meaning of Adhoc Employment

In the landmark judgment of *Rudra Kumar Sain v. Union of India*⁷³⁸, the Supreme Court, while citing Black's Law Dictionary, explained the term "ad hoc" as something established for a specific objective. The Court observed that it is not possible to keep the position vacant and if there are delays in recruitment process, then such an appointment can rightly be described as a "stop-gap arrangement" and the individual appointed is considered to be holding the post on an "ad hoc" basis.

To put simply, ad hoc appointments are temporary in nature, made to fill vacancies until the regular recruitment process concludes. These types of appointments serve as interim solutions and typically do not carry the same privileges as regular positions, especially with regard to seniority or promotional avenues.

In some instances, service rules explicitly permit such appointments under specific circumstances. When individuals are engaged solely for a limited purpose without any intention of long-term employment, their appointments are categorized as ad hoc. Such designations must be interpreted in light of the applicable service rules. If interpreted too broadly, the term could incorrectly encompass all roles that require expert knowledge, given that many of these appointments are also

made for specialized and temporary functions, rather than for permanent employment.⁷³⁹

The Court further emphasized that where appointments are made due to the inability to leave posts unfilled resulting from delays in completing regular selection procedures those appointments qualify as temporary stop-gap measures and fall under the ad hoc category. It also clarified that it is impractical to formulate an all-encompassing definition or a rigid framework of situations that warrant ad hoc appointments. These appointments are inherently transitional, designed to serve immediate needs and are not meant for extended employment.⁷⁴⁰

Moreover, the absence of specific service rules governing recruitment to a post does not automatically imply that the appointment lacked any selection process. Whether an appointment is ad hoc or not must be evaluated by considering various aspects, including:

- the nature of the role,
- the procedure followed during selection,
- the tenure of the appointment,
- and other relevant contextual elements.

Further there are certain conditions and time-limit for ad-hoc appointments. They are :

- a) An individual appointed on an ad-hoc basis shall not derive any entitlement or legitimate expectation for being absorbed into a regular position as a matter of right.
- b) Ministries and departments are permitted to make ad-hoc appointments or promotions for a duration not exceeding one year. In cases where extraordinary circumstances necessitate an extension, prior authorization must be obtained from the Department of Personnel and

⁷³⁸ Rudra Kumar Sain v. Union of India, 2000(8) SCC 25

⁷³⁹ Ad-Hoc Appointment, B&B Associates LLP, <https://bnblegal.com/article/adhoc-appointment/>

⁷⁴⁰ Ibid

Training (DoPT). A detailed justification must accompany such a request, which should be submitted not less than two months prior to the expiration of the initial one-year term, adhering to the prescribed format. In the absence of timely approval from DoPT, the ad-hoc appointment or promotion shall stand discontinued automatically upon the completion of the one-year tenure.

- c) In respect of Group 'C' positions, ad-hoc appointments or promotions may continue for a cumulative period not exceeding 3 years, provided that all other procedural and policy requirements are duly met.⁷⁴¹

III. Circumstances Where Ad-Hoc Appointments Can Be Made & Cannot Be Made

A. General Principle for Filling Posts

As a general rule, all government posts must be filled through regular appointments in accordance with the Recruitment Rules (RRs) using the prescribed selection procedures. These rules are designed to ensure transparency, merit, and adherence to constitutional norms. Nevertheless, there may arise circumstances beyond the control of the Cadre Controlling Authority or the relevant Administrative Ministry/Department, where regular appointments or promotions cannot be executed in the usual course.⁷⁴²

In such scenarios, although the ideal course is to keep the post vacant until regular recruitment is feasible, the necessity of maintaining administrative functionality may require temporary arrangements.

B. Circumstances Permitting Ad-Hoc Appointments

Ad-hoc appointments may be resorted to only under exceptional circumstances and as a matter of last resort. These include:

- Where keeping vacant post would severely impact essential operations or the functioning of the organization, and
- Where the Recruitment Rules do not provide for deputation or any other alternative method to fill the post temporarily.

Such appointments must remain a rare exception, aimed solely at addressing urgent functional requirements without compromising the overall policy objective of regularizing all posts through proper procedures.

C. Guiding Norms for Ad-Hoc Appointments/Promotions

When an individual is appointed or promoted on an ad-hoc basis, it should be clearly understood that this is a temporary measure. The appointee must be replaced at the earliest opportunity by a candidate selected through proper channels, whether by direct recruitment, regular promotion, or deputation, depending on what the rules provide.

D. Justifiable Grounds for Ad-Hoc Appointments

1. Where the finalization of seniority lists or other service matters is challenged before a court or tribunal, and a judicial order restrains the authorities from proceeding with regular appointments or promotions, ad-hoc arrangements may be considered. This is particularly valid when such litigation remains unresolved for a considerable time and leaving the post vacant would disrupt organizational efficiency.
2. If the regular incumbent of a position goes on leave exceeding 45 days or is assigned to a short-term deputation (up to one year), and the role is essential for the department's routine operations, it may be temporarily filled through an ad-hoc arrangement.

⁷⁴¹ Ministry of Personnel, Public Grievances & Pensions, "Clarifications Regarding the status of Ad-hoc appointments", (Mar 30, 1988) https://documents.doptcirculars.nic.in/D2/D02est/28036_8_87_30Mar1988.pdf

⁷⁴² Department of Personnel and Training, "Instructions on Ad Hoc appointments, (Mar.10, 1989), [https://documents.doptcirculars.nic.in/D2/D02est/22011_5_86_Estt\(D\).pdf](https://documents.doptcirculars.nic.in/D2/D02est/22011_5_86_Estt(D).pdf)

3. In cases where posts reserved for direct recruitment remain vacant and the existing rules do not allow these to be filled on a temporary basis through deputation or transfer, an ad-hoc appointment may be made—provided functional requirements demand that the post should not remain unoccupied.

E. Where Adhoc appointment cannot be resorted to

1) Lack of Finalized Recruitment rules – Ad-hoc appointments are often attempted on the grounds that the recruitment rules (RRs) for a post have not yet been framed. This justification does not hold legal merit.

- In the case of Group 'A' and 'B' posts, the concerned Ministries or Departments are required to consult the Union Public Service Commission (UPSC) and initiate recruitment through the "One-Time Method mechanism". Appointments made through this process, upon UPSC's recommendation, are regarded as valid and regular in nature.
- In the case of Group 'C' posts, the concerned Ministries or Departments are empowered to formulate or revise recruitment rules on their own, without needing clearance from the Department of Personnel and Training (DoPT), since such posts do not fall under UPSC jurisdiction. Hence, the absence of rules cannot be a justification for resorting to ad-hoc appointments.⁷⁴³

2) Ongoing Amendment of Recruitment Rules – A common argument in favor of ad-hoc appointments is the ongoing process of amending the current recruitment rules. However, under established legal principles, vacancies must be filled as per the rules that are in force at the time the vacancy arises, unless the new rules are specifically made retrospective, which is not a general practice.

⁷⁴³ Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training, O.M. No.28036/8/87-Estt.(D) (Mar 30, 1988), https://documents.doptcirculars.nic.in/D2/D02est/28036_87_30Mar1988.pdf

Since rule amendments usually apply prospectively, ad-hoc appointments cannot be defended on the ground that recruitment rules are under revision.

3) Insufficiency in the Direct Recruitment Quota

- i. In certain instances, ad-hoc appointments are made when there is an insufficient number of qualified candidates proposed by recruitment agencies such as the UPSC or SSC. This may occur when selected individuals either do not accept the offer or resign shortly after joining. Nevertheless, such instances do not justify bypassing regular procedures through ad-hoc appointment.
- ii. If possible, vacant posts should remain unfilled until a new recruitment cycle brings in eligible candidates.
- iii. If the existing recruitment rules allow for alternatives like deputation, this method should be pursued instead of appointing individuals on an ad-hoc basis especially when waiting for regular appointments from recruiting agencies is impractical.

IV. Regularisation Of Ad Hoc Employees: Judicial Trends

Regularization signifies the formal process by which a person initially employed on an ad-hoc or temporary basis is formally inducted into the regular service cadre. Disputes often arise when such individuals, having served for an extended period without interruption, claim entitlement to permanent status.

The Hon'ble Supreme Court of India has addressed this issue through several landmark decisions. In *R.N. Nanjundappa v. T. Thimmaiah & Ors*,⁷⁴⁴ the Court clarified that regularization does not constitute a legitimate method of recruitment and any governmental act under its executive power must not override service rules framed under Article 309 of the Constitution.

⁷⁴⁴ R.N. Nanjundappa v. T. Thimmaiah & Ors AIR 1972 SC 1767

Similarly, in *State of Orissa v. Sukanti Mahapatra*⁷⁴⁵, the Court held that simply because an individual has rendered long service does not justify their regularization unless the action serves public interest and complies with established recruitment rules. The judgment emphasized that validating such irregular appointments effectively nullifies the rules in place.

In *K.C. Joshi v. Union of India*⁷⁴⁶, the Court stressed that those appointed temporarily on an ad-hoc basis cannot supersede candidates who have succeeded in open competitive exams and ranked based on merit.

Further, in *State of Haryana & Ors v. Piara Singh & Ors*⁷⁴⁷, the Supreme Court cautioned against legitimizing backdoor entries through ad-hoc appointments, as doing so compromises the fairness and transparency of public employment.

The Court in *Dr. M.A. Haque v. Union of India*⁷⁴⁸ reaffirmed that recruitment rules under Article 309 must be strictly observed, and any deviation especially bypassing rules of the Public Service Commission could open the back door to unregulated and illegal appointments.

In *Dr. Arundhati A. Pargaonkar & Anr v. State of Maharashtra*⁷⁴⁹ (AIR 1995 SC 962), it was ruled that continuous service alone does not create a legal entitlement to regular appointment.

The Punjab and Haryana High Court, in *Saroj Kumari v. State of Punjab*⁷⁵⁰, held that ad-hoc employees do not have a vested right to permanent employment and are classified separately from regular appointees.

V.J. Balreddy v. Andhra Bank, where it held that ad-hoc appointments are interim in nature and made only to fill urgent vacancies temporarily. Since such appointments are not made following the prescribed selection procedures,

no legal right to continued employment can be claimed once the term ends. However, if such appointments extend over a prescribed period, authorities have to review the case for regularization, only if the employee meets all eligibility requirements.

The distinction between 'regularization' and 'permanence' was explained in *State of Mysore v. S.V. Narayanappa*⁷⁵¹, where the Court stated that being regularized employees does not equate to acquiring permanent status. Further elaborating this distinction, in *B.N. Nagarajan v. State of Karnataka*⁷⁵², it was observed that the terms "regular" or "regularization" are meant to rectify procedural defects in appointment processes, not to determine the nature of tenure.

In *Union of India v. S.K. Bhargava*⁷⁵³ the respondent's appointment was clearly ad-hoc, with a condition that non-selection by UPSC after three attempts would result in termination. Since he did not utilize those chances and was also found unsuitable during a special selection process, his removal was upheld as valid. Likewise, when a petitioner participated in a selection process but was not chosen, their termination was not considered arbitrary.

In *Jagbir Singh v. Punjab Backward Classes Land Development & Finance Corporation*⁷⁵⁴ the petitioner, though initially appointed on an ad-hoc basis, was not selected through the competitive process, whereas candidates with higher merit were. The termination of the petitioner's service was deemed neither unlawful nor unreasonable.

An ad hoc employee is one who is appointed temporarily to meet urgent administrative needs and does not have any lien or legal claim over the post. Such appointments are essentially stop-gap arrangements and do not confer any right to seek regularisation or permanence in service. The judiciary has

⁷⁴⁵ State of Orissa v. Sukanti Mahapatra AIR 1993 SC 1650

⁷⁴⁶ K.C. Joshi v. Union of India, AIR 1991 SC 284

⁷⁴⁷ State of Haryana & Ors v. Piara Singh & Ors, 1992 SC 2130

⁷⁴⁸ Dr. M.A. Haque v. Union of India 1993 2 SCC 213

⁷⁴⁹ Arundhati A. Pargaonkar & Anr v. State of Maharashtra AIR 1995 SC 962

⁷⁵⁰ Saroj Kumari v. State of Punjab, (1988) 120 PLR 123

⁷⁵¹ State of Mysore v. S.V. Narayanappa, 1967 AIR 1071

⁷⁵² B.N. Nagarajan v. State of Karnataka, AIR 1979 SC 1676

⁷⁵³ Union of India v. S.K. Bhargava, AIR 1997 SC 2845

⁷⁵⁴ Jagbir Singh v. Punjab Backward Classes Land Development & Finance Corporation, 1998 (1) SLR (P & H) 407

consistently held that an ad hoc employee, whose appointment is not in line with the prescribed rules or the constitutional mandate of public employment, cannot claim a vested right to hold the post.

Unless expressly provided in the appointment terms, such an employee can be terminated without being afforded an opportunity of hearing or enquiry. However, if the appointment letter mandates prior notice before termination, then failure to provide such notice makes the termination invalid.

In the landmark case of *State of Haryana v. Piara Singh*⁷⁵⁵, the Supreme Court laid down comprehensive guidelines for regularisation of ad hoc employees. The court highlighted that each case must be assessed based on its unique facts and circumstances, rather than applying a uniform administrative procedure. It clarified that merely allowing an ad hoc employee to continue for over a year does not automatically indicate a permanent need for the position. Regularisation must be guided by fairness and legality, ensuring that only those who met the required qualifications at the time of their initial appointment are eligible. To avoid unfair practices or “backdoor entries”, preferences should be given to candidates recommended by employment exchanges.

The court also held that appointments made out of urgency should be temporary and such posts must be eventually be filled through proper processes. Replacing one ad hoc employee with another without formal recruitment undermines constitutional principles, particularly those enshrined in Article 16, where qualified candidates are unavailable, exceptions may be made temporarily, but such appointments must not become a norm. Importantly, if an ad hoc employee has served for a significant period and meets all eligibility criteria, their case should be fairly considered for regularisation, keeping in mind existing rules and reservation norms. However, once regularised, such employees should be placed

below all those already holding regular appointments in same cadre.

The Constitution Bench judgment in *Secretary, State of Karnataka v. Uma Devi*⁷⁵⁶ further consolidated the law on this issue. The Court held that appointments made in contravention of constitutional and statutory recruitment procedures cannot be regularised merely due to long tenure. Articles 14, 16, and 309 require adherence to fair recruitment processes, and backdoor entries are unconstitutional. However, the Court has allowed a one-time relaxation under exceptional circumstances for employees who:

- Had rendered 10 years of service;
- Were working against sanctioned posts;
- Whose appointments were irregular (procedural defects) but not illegal.

In *State of Jharkhand v. Kamal Prasad*, applying the principles of *Uma Devi* case, the Supreme Court upheld the High Court's order for regularisation, recognizing continuous service of over 10 years and the absence of illegality in appointment. This ruling has subsequently influenced other decisions such as: *Nisha Mathur v. State of Rajasthan*, *Suman Devi v. State of Jharkhand*, *Sisir Kumar Ganguly v. State of West Bengal*.

Interestingly, in *Amarkant Rai v. State of Bihar*,⁷⁵⁷ the Supreme Court adopted a more compassionate stance, diverging from *Uma Devi*. The appellant had served for nearly 29 years on daily wages. Considering the exceptional length of service and the absence of any illegalities, the Court directed the University to regularise his services.

V. Doctrine Of Legitimate Expectation

The doctrine of legitimate expectation applies when an individual anticipates certain conduct or benefits from a public authority, based on consistent past actions, established policies,

⁷⁵⁵ *State of Haryana v. Piara Singha* AIR 1992 SC 2130

⁷⁵⁶ *Secretary, State of Karnataka v. Uma Devi*, AIR 2006 SC 1806

⁷⁵⁷ *Amarkant Rai v. State of Bihar*, 2015 AIR SCW 3080

explicit promises, or routine administrative practices.

In the case of *State of Mysore v. S.V. Narayanappa*⁷⁵⁸, the Supreme Court observed that individuals appointed on an ad hoc basis without undergoing the proper selection process outlined by relevant rules or procedural norms are presumed to understand that their appointments are temporary. Such individuals, therefore, cannot invoke the doctrine of legitimate expectation to claim permanent status. Appointments to such posts require adherence to a duly recognized selection process, which includes consultation with the Public Service Commission. As a result, ad hoc employees cannot rely on this doctrine to assert rights to regularisation. Furthermore, it cannot be inferred that the State gave any kind of assurance or promise regarding their continuation or permanency. The Constitution itself does not permit the State to make such promises.

The doctrine cannot be applied to claim permanent employment, as Article 14 guarantees equality of opportunity in public employment, reinforced by affirmative action to prevent unequal treatment. The framework for recruitment in public services is governed by legislative enactments and regulations formed under Articles 14, 16, 309, 315, 320, and 335. These constitutional provisions mandate that all appointments in government services be made through defined procedures specifying qualifications, selection methods, and other criteria. Article 309, in particular, requires a regulated recruitment process, and the Constitution does not support employment that bypasses these laid-down norms.

Any deviation from this framework can only be regularised by the executive or the judiciary if the selection process, though substantially valid, suffers from non-compliance with a minor or non-fundamental procedural requirement. Neither the government nor the judiciary can declare appointments that blatantly

contravene constitutional and statutory norms as permanent or entitled to regularisation.

In *Union of India & Another v. Arul Mozhi Iniarasu & Others*⁷⁵⁹, the court emphasized that a mere legitimate or reasonable expectation, by itself, does not automatically create enforceable rights under law. Similarly, in the landmark decision of *Secretary, State of Karnataka & Others v. Uma Devi & Others*, the Court clarified that this doctrine is applicable only if two conditions are satisfied:

- The individual must have previously enjoyed certain benefits or entitlements, based on representations by the authority, and believed those benefits would continue unless there was a valid reason for their withdrawal.
- There must have been an assurance from the authority that the benefits would not be withdrawn without offering the individual an opportunity to explain why such action should not be taken.

In the present case, since no assurance or promise of future regularisation was made by the department of commercial tax, employees cannot invoke the doctrine of legitimate expectation to claim permanent status if their initial appointments did not comply with established procedures.

VI. Conclusion

The phenomenon of ad hoc employment and its subsequent calls for regularization underscores a tension between administrative necessity and constitutional propriety. While ad hoc appointments serve immediate organizational requirements, their unchecked continuation risks undermining the core principles of equality, transparency, and meritocracy embedded in Articles 14 and 16 of the Constitution of India. The judiciary has played a pivotal role in navigating this complex terrain, consistently advocating adherence to prescribed recruitment rules while recognizing

⁷⁵⁸ *State of Mysore v. S.V. Narayanappa*, (1967) 1 SCR 128,

⁷⁵⁹ *Union of India & Another v. Arul Mozhi Iniarasu & Others*, 2011(9) SCR 1

the hardships faced by long-serving ad hoc employees.

Judicial pronouncements, particularly in *State of Karnataka v. Uma Devi*, have emphasized that regularization cannot serve as a remedy for appointments made in contravention of constitutional norms. However, the Court has permitted limited exceptions under exceptional circumstances, such as cases involving sanctioned posts and prolonged service. This nuanced approach reflects an attempt to harmonize individual employee rights with the imperatives of governance and constitutional integrity.

Additionally, the doctrine of legitimate expectation provides a theoretical framework for analyzing claims of regularization. However, its application remains constrained by the overarching need to safeguard the principles of merit-based selection and equal opportunity. The judiciary has refrained from endorsing regularization as an automatic entitlement arising from prolonged service, thereby preserving the sanctity of recruitment procedures.

Going forward, the resolution of disputes surrounding ad hoc employment demands a dual approach: strengthening administrative processes to reduce the reliance on temporary appointments while ensuring a humane consideration of individual circumstances in exceptional cases. Balancing organizational efficiency with constitutional values is key to fostering a system that is both equitable and effective.

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