IN THE HIGH COURT OF MADHYA PRADESH

AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT

WRIT PETITION No. 158 of 2016

CNR No.: MPHC030004872016

PRIYANKA CHAUHAN

Versus

UNION OF INDIA AND OTHERS

Appearance:

Shri D.P. Singh and Shri Manoj Pratap Singh Yadav- Advocates for petitioner.

Shri Kabir Quraishi- Advocate for respondents.

Reserved on : 15.09.2026

Pronounced on : 30.10.2026

ORDER

This petition, under Article 226 of the Constitution of India, has been filed seeking following relief(s):-

> *"(i) That, the present petition filed by the petitioner may kindly be allowed;*
>
> *(ii) That, the impugned order dated 02.09.2013 passed by respondent No. 3 may kindly be quashed.*

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(iii) That, the respondents be directed to regularize the service of the petitioner on the post of Administrative Officer from the due date and direct the respondents to pay all the dues to the petitioner from the date of discontinuance i.e. 17.02.2012.

(iv) That, direction be given to initiate proceeding of perjury against the respondents on account of creating forged and fabricated document.

(v) That, action as deemed fit may be initiated against the 5-member committee for having reversed the observations of this Writ Court in considering the accepted 'satisfactory' performance of the petitioner as 'average', with a malafide intention of scuttling the administration of justice.

(vi) That, compensation be also granted to the petitioner because the petitioner has been made to suffer due to the illegal act of the respondents.

(vii) That, any other just, suitable and proper relief, which this Hon'ble Court deems fit, may also kindly be granted to the petitioner. Costs be also awarded in favour of the petitioner."

2. It is submitted by learned counsel for the petitioner that the impugned order dated 02.09.2013, passed by respondent No. 3, whereby the petitioner's claim for regularization on the post of Administrative Officer has been rejected, is illegal, arbitrary, discriminatory and actuated by *mala fide* intentions. The petitioner's case is that, despite a specific direction issued by this Hon'ble Court in W.P. No. 6939/2011 to consider her claim for regularization, the respondents have rejected her claim by relying upon a forged and fabricated note sheet dated 20.01.2012, which was never produced before the learned Single Bench or the Division Bench in the earlier proceedings or before the Hon'ble Supreme Court.

3. It is further submitted by learned counsel for petitioner that the petitioner is the daughter of late Shri P.S. Chauhan, who sacrificed his life in a militant attack while serving at the Kashmir border. The petitioner worked as a Lab Technician at Madhav Institute of Technology and Science, Gwalior, from 13.03.2003 to

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17.07.2007, and thereafter served as Administrative Officer at Rustamji Institute of Technology, BSF Academy, Tekanpur. Pursuant to the advertisement dated 12.05.2008 issued by respondent No.3 for regular appointment to the post of Administrative Officer, the petitioner applied and participated in the selection process. Although the post was sanctioned and advertised on a regular basis, she was offered contractual appointment for two years vide order dated 01.09.2008. The Selection Committee had recommended that, on satisfactory performance, her case could be considered for regularization. Relying upon the assurance of the authorities and the prevailing practice of regularizing contractual employees, the petitioner resigned from her previous employment, where her services were about to be confirmed, and joined the respondent Institute.

4. It is contended by learned counsel for petitioner that the petitioner was initially posted at Bhubaneswar despite the availability of the post at Gwalior. She was subsequently attached to IITTM, Gwalior, vide order dated 20.12.2010 and assigned administrative duties on 23.12.2010. After satisfactory completion of her contractual tenure, the Nodal Officer recommended extension of her services, and extensions were granted vide orders dated 24.09.2010 and 03.10.2011. Her confidential reports for the periods 27.09.2008 to 31.03.2009, 01.04.2009 to 31.03.2010, and 01.04.2010 to 31.12.2010 recorded satisfactory performance. However, her services were not further extended, and her claim for regularization was rejected without valid justification.

5. It is further submitted by learned counsel for petitioner that the petitioner challenged the rejection of her claim by filing W.P. No.6939/2011, which was allowed vide order dated 26.04.2013 with a direction to consider her case for regularization from the due date. The Division Bench dismissed W.A. No.194/2013 on 16.05.2013, and the Special Leave Petition filed by the

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Signing time: 10/31/2026 1:06:43 PM

respondents was also dismissed by the Hon'ble Supreme Court on 15.07.2013. Despite these orders, the respondents rejected the petitioner's claim, compelling her to initiate contempt proceedings. In Contempt Appeal No. 1/2015, the petitioner was granted liberty to challenge the impugned order dated 02.09.2013 on its own merits.

6. It is contended by learned counsel for petitioner that, after obtaining information under the Right to Information Act, 2005, vide letter dated 04.12.2013, the petitioner discovered that the five-member committee had arbitrarily downgraded her first three satisfactory performance reports to "average" and assessed her performance for the fourth period, from 01.01.2011 to 31.12.2011, as "poor", solely on the basis of the alleged note sheet dated 20.01.2012. The said note sheet was not supported by any prescribed ACR assessment sheet or folder, did not bear a file number or dispatch number, and was never communicated to the petitioner. The petitioner alleges that it was fabricated and antedated, as it was not produced before the learned Single Bench or Division Bench during the earlier litigation, despite the issue of her performance being under consideration. Moreover, the petitioner was never issued any show-cause notice or warning regarding her alleged poor performance, and her contractual services were subsequently extended.

7. Learned counsel for petitioner further submits that the constitution of the five-member committee was illegal, arbitrary and *mala fide*, particularly when the respondents had admitted in their submissions in Contempt Petition No.505/2013 that no prescribed criteria existed for regularization. The respondent Institute had regularized the services of 59 employees, including employees who had served for less than ten years, without applying any uniform criterion. The petitioner was thus discriminated against, despite being similarly situated and possessing the

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Signing time: 10/31/2026 1:06:43 PM

requisite qualifications and experience. The committee could not substitute its own assessment by changing the recorded remarks of "satisfactory" to "average", contrary to the findings recorded in the petitioner's confidential reports and the observations made in the earlier judicial proceedings.

8. It is also submitted by learned counsel for petitioner that the action of the respondents is contrary to the law laid down by the Hon'ble Supreme Court in **Devdutt v. Union of India, reported in AIR 2008 SC 2513**, wherein it was held that entries in the ACR, including adverse or below-benchmark entries, must be communicated to the employee so that an opportunity to make a representation is available. The petitioner contends that the impugned order violates the principles of natural justice, is unsupported by reliable material, and has been passed to defeat her legitimate claim for regularization and disregard the earlier judicial directions. In the rejoinder, the petitioner has also alleged that the respondents' conduct amounts to contempt of court and perjury, particularly on account of the alleged creation and use of the note sheet dated 20.01.2012 and the alteration of her performance assessment.

9. Accordingly, learned counsel for the petitioner prays that the impugned order dated 02.09.2013 be quashed and the respondents be directed to regularize the petitioner on the post of Administrative Officer with all consequential monetary and non-monetary benefits. The petitioner has also prayed for initiation of contempt and perjury proceedings against Shri Kanti Prasad Gautam, Shri Sandeep Kulshreshtha and Smt. Manjula Chaudhary for their alleged role in creating and relying upon the disputed document and denying her legitimate claim.

10. *Per contra*, it is submitted by learned counsel for the respondents that the petitioner was not found suitable for regular appointment to the post of

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Signing time: 1/31/2026 1:06:43 PM

Administrative Officer in the Indian Institute of Tourism and Travel Management (IITTM), considering her administrative experience and performance in the interview. However, she was recommended for appointment on a purely contractual and temporary basis, with her case for regularization to be considered on the basis of her performance. The recommendation did not confer any automatic or unconditional right to regularization, and the petitioner was required to demonstrate outstanding performance during her contractual engagement.

11. It is further submitted by learned counsel for respondents that, in compliance with the orders dated 26.04.2013 passed in W.P. No. 6939/2011(S), 16.05.2013 passed in W.A. No. 194/2013 and 15.07.2013 passed by the Hon'ble Supreme Court in S.L.P. No. 20265/2013, the petitioner's case was considered by a five-member senior committee on 24.08.2013. The Committee examined her performance records and assessed her performance as Average for the periods from 27.09.2008 to 31.03.2009, 01.04.2009 to 31.03.2010 and 01.04.2010 to 31.12.2010, whereas her performance for the period from 01.01.2011 to 31.12.2011 was assessed as Poor. Accordingly, the Committee found her unsuitable for regularization, and the competent authority issued the order dated 02.09.2013 accepting the Committee's recommendation.

12. Learned counsel for respondents further submits that the assessment for the period from 01.01.2011 to 31.12.2011 was based on the contemporaneous performance report dated 20.01.2012, prepared by the Nodal Officer and endorsed by the Director, IITTM. The report recorded her performance as unsatisfactory and expressed concern that her continuation was likely to adversely affect office discipline and the institutional interests of IITTM. It is, therefore, contended that the Committee's decision was supported by official material and was not based on any arbitrary or unsupported assessment. The

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Signing time: 10/31/2026 1:06:43 PM

respondents have placed the relevant performance material before this Court pursuant to the order dated 10.07.2026.

13. It is also submitted by learned counsel for respondents that the petitioner's reliance upon earlier satisfactory remarks and extensions of her contractual appointment does not create an indefeasible right to regularization. Her suitability was required to be assessed on the basis of her overall service record, and the Committee duly considered the relevant material before arriving at its conclusion. The respondents contend that the Committee applied its mind to the petitioner's case and that the mere disagreement of the petitioner with the assessment does not establish arbitrariness or absence of material.

14. Learned counsel for respondents further submits that the petitioner was engaged on a contractual basis as a stop-gap arrangement and not against the regular post through a regular selection process. Under the applicable recruitment structure, promotion was the first mode of recruitment, followed by transfer on deputation/direct recruitment. The petitioner's contractual engagement was made when a departmental candidate was unavailable; subsequently, the eligible departmental candidate was promoted to the post of Administrative Officer on 07.02.2014. Thus, neither the contractual appointment nor its extension conferred any permanent right upon the petitioner to occupy the post.

15. It is further contended by learned counsel for respondents that the petitioner's reliance upon the regularization of 59 other employees is misplaced, as their regularization was undertaken as a one-time administrative measure in different circumstances, following a work-study exercise and creation of regular posts, when they had been working on contract for more than ten years. The petitioner's case was required to be considered independently on the basis of her

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Signing time: 10/31/2026 1:06:43 PM

own service record, and the regularization of other employees does not confer any enforceable right upon her.

16. Lastly, learned counsel for respondents submits that the scope of judicial review does not ordinarily permit this Court to substitute its own assessment of suitability for that of a duly constituted committee. Since the petitioner's case was considered in compliance with the directions of this Court, the Committee examined the relevant performance records, and contemporaneous material supported its conclusion, no ground for interference is made out. The respondents, therefore, pray that the writ petition be dismissed, as the petitioner has no automatic right to regularization and the impugned order dated 02.09.2013 was passed after consideration of her suitability by the competent authorities.

17. No other point is raised by learned counsel for the parties.

18. Heard learned counsel for the parties and perused the material available on record.

19. The principal question for consideration is whether the respondents have lawfully considered the petitioner's claim for regularization and whether the order dated 02.09.2013 suffers from arbitrariness or procedural unfairness.

20. At the outset, it is necessary to clarify that a contractual employee does not automatically acquire a right to regularization merely because the employee has worked for several years or because the contractual appointment has been extended from time to time. In ***Secretary, State of Karnataka v. Umadevi*, (2006) 4 SCC 1**, the Hon'ble Supreme Court held that public employment must ordinarily be made in accordance with the constitutional requirements of equality of opportunity under Articles 14 and 16 of the Constitution of India.

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Signing time: 10/31/2026 1:06:43 PM

21. Therefore, the petitioner cannot claim regularization merely on the basis of the Selection Committee's recommendation or the extension of her contractual appointment. Her claim has to be examined in accordance with the applicable recruitment rules, the nature of her appointment and the directions issued by this Court in the earlier proceedings.

22. However, the fact that the petitioner has no automatic right to regularization does not mean that the respondents are free to consider her claim arbitrarily. Once the competent authority undertakes to consider a claim in compliance with a judicial direction, such consideration must be fair, reasonable and based upon relevant material. The decision must satisfy the requirements of Article 14 of the Constitution of India.

23. In the present case, the petitioner's earlier performance reports are stated to have recorded satisfactory performance. Her contractual appointment was also extended from time to time. Subsequently, the five-member committee assessed three earlier periods as “Average” and the fourth period as “Poor”. The respondents have relied upon the note sheet dated 20.01.2012 to justify this assessment.

24. The issue is not whether this Court should itself assess the petitioner's administrative performance. Ordinarily, the assessment of an employee's suitability is within the domain of the competent authority. However, where an assessment is challenged on the ground that it is based on undisclosed adverse material or has been made in an arbitrary manner, this Court can examine whether the decision-making process was lawful.

25. In ***Dev Dutt v. Union of India*, (2008) 8 SCC 725**, the Hon'ble Supreme Court held that an entry in the Annual Confidential Report of a public servant must be communicated within a reasonable period, even if the entry is not

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Signing time: 1/31/2026 1:06:43 PM

formally adverse but is capable of adversely affecting the employee's career prospects.

26. The above principle was approved by a three-Judge Bench of the Hon'ble Supreme Court in ***Sukhdev Singh v. Union of India*, (2013) 9 SCC 566**. The Court emphasized that communication of performance entries gives an employee an opportunity to make a representation and seek correction of an assessment that may adversely affect career progression.

27. Applying the above principles, if the entries in question are performance assessments of the nature covered by the aforesaid judgments, and they were relied upon to reject the petitioner's claim without being communicated to her, the respondents' action would be inconsistent with the requirement of fairness. The petitioner ought to have been given a reasonable opportunity to make a representation against such adverse assessments before they were used to determine her suitability, subject to the applicable service rules and governing procedure.

28. The respondents contend that the note sheet dated 20.01.2012 was prepared contemporaneously by the Nodal Officer and endorsed by the Director. The petitioner, on the other hand, disputes its genuineness and alleges that it was fabricated or antedated. The mere fact that a document was not produced in earlier litigation does not, by itself, establish that it is fabricated. Similarly, an allegation of fabrication cannot be accepted without supporting material.

29 Nevertheless, when a disputed document is relied upon to justify an adverse decision, the authority must be able to establish that the document forms part of the authentic official record and that the assessment was made by the competent persons in accordance with the applicable procedure. The authority

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Signing time: 1/31/2026 1:06:43 PM

must also consider the earlier performance reports and explain any material departure from them.

30. In the present case, the petitioner's challenge raises a substantial question regarding the manner in which her performance was reassessed and the use of the note sheet dated 20.01.2012. The respondents must demonstrate that the committee considered the relevant records objectively and did not merely adopt an adverse note without examining the petitioner's complete service record. The fact that her contractual services had previously been extended is also relevant material that ought to be considered, although it does not conclusively establish satisfactory performance for every subsequent period.

31. The earlier judicial proceedings are also relevant. The respondents were required to consider the petitioner's claim in accordance with the directions issued in W.P. No.6939/2011, as affirmed in the writ appeal and followed by dismissal of the Special Leave Petition. The precise effect of those directions must be determined from the operative part of the earlier orders. If the direction was only to consider the claim, it cannot be treated as a direction to grant regularization automatically. At the same time, the respondents could not defeat the direction by conducting a consideration that was arbitrary or contrary to law.

32. The petitioner has also relied upon the regularization of 59 other employees. Article 14 requires the State and its instrumentalities to act fairly and consistently. However, the regularization of other employees does not automatically entitle the petitioner to the same benefit. The relevant question is whether those employees were similarly situated in terms of their appointment, qualifications, length of service, applicable recruitment rules and the circumstances in which their services were regularized. The respondents'

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Signing time: 1/31/2026 1:06:43 PM

explanation that those employees were regularized under a separate administrative exercise must be examined on the basis of the relevant records.

33. This Court is conscious that it cannot ordinarily substitute its own opinion for that of a duly constituted selection or assessment committee. Judicial review is concerned with the legality and fairness of the decision-making process, not with conducting a fresh assessment of the employee's suitability. Nevertheless, where the decision is based upon material that was not fairly disclosed, where relevant records have not been properly considered, or where the decision-making process is arbitrary, interference under Article 226 of the Constitution of India is justified.

34. In view of the above discussion, this Court is of the considered opinion that the petitioner's challenge to the process adopted by the respondents requires acceptance to the extent that the impugned decision cannot be sustained unless the adverse assessments relied upon by the committee are shown to have been made and used in accordance with law. The respondents must reconsider the matter after examining the authenticity and relevance of the note sheet dated 20.01.2012, the petitioner's earlier performance reports and the applicable recruitment rules.

35. At the same time, this Court is not inclined to issue a direct order of regularization at this stage. In view of the law laid down in ***Umadevi*** **(supra)**, regularization can be directed only where the petitioner establishes an entitlement under the applicable legal framework. A direction for fair consideration cannot be converted into an automatic right to permanent appointment.

36. Accordingly, the writ petition is allowed in part. The impugned order dated 02.09.2013 is set aside, and the matter is remitted to the competent authority for

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Signing time: 10/31/2026 1:06:43 PM

fresh consideration of the petitioner's claim for regularization. While reconsidering the matter, the competent authority shall:

(i) examine the petitioner's complete service and performance record, including the earlier performance reports and the extensions of her contractual appointment;

(ii) verify the authenticity and relevance of the note sheet dated 20.01.2012 and consider whether it was prepared and relied upon in accordance with the applicable procedure;

(iii) communicate to the petitioner the adverse performance entries proposed to be relied upon and afford her a reasonable opportunity to submit a representation, wherever required by law;

(iv) consider the petitioner's representation by passing a reasoned and speaking order, dealing with the relevant grounds raised by her;

(v) examine the applicable recruitment rules and the petitioner's eligibility for regularization, without treating the regularization of other employees as automatically decisive; and

(vi) ensure that the decision is consistent with the directions issued in the earlier judicial proceedings.

37. The above exercise shall be completed, as far as practicable, within three months from the date of receipt of a certified copy of this order.

38. It is made clear that this Court has not expressed any final opinion on the petitioner's entitlement to regularization. The competent authority shall decide the matter independently and in accordance with law. If the petitioner is found entitled to regularization under the applicable rules and binding judicial directions, the consequential benefits shall be determined in accordance with law.

39. So far as the allegations of fabrication, perjury and contempt are concerned, no finding of guilt can be recorded merely on the basis of the allegations made in the petition. The prayer for initiation of separate proceedings is therefore not granted in the present writ petition. This shall not prevent the

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Signing time: 1/31/2026 1:06:43 PM

petitioner from pursuing any remedy available to her in accordance with law, if supported by appropriate material.

40. With the aforesaid directions, the writ petition stands ***disposed of***. There shall be no order as to costs.

(Anand Singh Bahrawat)
Judge

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Signing time: 1/31/2026 1:06:43 PM