

GAD-SC-GCS-0169-2020 10682/Gen.,

Government of Odisha
General Administration and Public Grievance Department

OFFICE MEMORANDUM

Bhubaneswar dated the 19th April, 2022

Subject: Regularization of qualified workers appointed against sanctioned posts; — Uma Devi judgment- facts/clarification- regarding.

The undersigned is directed to say that the instructions for regularization of qualified workers appointed against sanctioned posts in the light of Hon'ble Supreme Court's Judgement dated 10.04.2006 in case of Uma Devi was clarified vide this Department letter dated 7210/Gen., dated 03.03.2021 in the form of checklist.

2. However, in the meantime, various cases have been received in this department seeking clarifications regarding implementation of the above judgment. Therefore, it has been decided that further important aspects of the judgement dated **10.04.2006** may be enunciated for the purpose of clarity of the judgement. These important points as quoted from the judgement are reproduced below:

- (i). Equality of opportunity is the hallmark for public employment and it is in terms of the Constitutional scheme only **(Para 1)**.
- (ii). The filling of vacancies cannot be done in a haphazard manner or based on patronage or other considerations **(Para 2)**.
- (iii). The State is meant to be a model employer and can make appointments only in accordance with the rules framed under Article **309** of the Constitution **(Para 5)**.
- (iv). Regularization is not and cannot be a mode of recruitment by any State within the meaning of Article 12 of the Constitution of India, or anybody or authority governed by a statutory Act or the Rules framed thereunder. Regularization, furthermore, cannot give permanence to an employee whose services are ad hoc in nature. The fact that some persons had been working for a long time would not mean that they had acquired a right for regularization. **(Para 27)**.
- (v). Any regular appointment made on a post under the State or Union without issuing advertisement inviting applications from eligible candidates and without holding a proper selection where all eligible candidates get a fair chance to compete would violate the guarantee enshrined under Article **16** of the Constitution **(Para 30)**.