

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 17354 of 2000

ORDER:

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Heard learned counsel for the petitioners and learned Government Pleader for Women Development and Child Welfare.

The present writ petition came to be filed seeking issuance of a writ of mandamus declaring the action of the first respondent in rejecting the proposal of the second respondent for regularization of the services of the petitioners, as arbitrary and illegal; and consequently direct the respondents to regularize the services of the petitioners from the date of their initial appointment with all consequential benefits including seniority and other monitory benefits.

The averments in the affidavit filed in support of the writ petition are as under:

The petitioners herein were selected in the year 1988, 1986 and 1992 respectively by the selection committee in pursuance of sponsorship made by the employment exchange for the posts notified by the second respondent and accordingly they joined duty in the post of Assistant Machineman, Machinman, Binder, Machineman and Helper respectively. As the petitioners were fully qualified and eligible to hold the said posts at the time of their selection and appointment, the petitioners were placed on probation for a period of one year. It is stated that though the petitioners were selected in the regular recruitment and were appointed by the competent authority, they were granted meager consolidated pay. Though several representations were submitted by the petitioners to the second respondent requesting him to regularize their services, did not yield any fruitful result. Hence, the petitioners filed Writ Petition Nos. 32196/1997, 18230/1997, 32589/1997, 30784/1997 and 6272/1998 respectively before this Court for regularizing their services from the date of entry into their service. While admitting the above writ petitions, this Court was pleased to

grant interim direction directing the respondents to continue the petitioners in service and to pay them minimum pay in the time scale of pay attached to the posts held by the petitioners. The said interim orders were implemented and the petitioners continued to be in service without any break. By an order dated 17.02.1999, this Court was pleased to allow the said writ petitions in part and a direction was issued to the respondent-Corporation to extend the benefit of time scales attached to the posts held by the petitioners with effect from 01.01.1999, but however rejected the request of regularization of services. Being aggrieved by the said judgment, the second respondent filed Writ Appeals, which were dismissed on 16.06.1999. Insofar as the regularization is concerned, the petitioners filed cross appeals before the Division Bench and the same were disposed of on 18.06.1999 with a direction to the respondents to consider the case of the petitioners in accordance with rules. The second respondent carried the matter in appeal to Supreme Court by way of S.L.P.No.11905 of 1999, which was dismissed on 27.08.1999. Since the orders were not implemented, the petitioners are alleged to have filed contempt cases which were closed as the orders were complied with. Insofar as the request of the petitioners with regard to regularization of their services is concerned, the first respondent vide letter No. 6963/Estt.A2/99-3 dated 10.03.2000 rejected the proposal of the second respondent on the ground that there are no sanctioned posts, and the cases of the petitioners cannot be considered. Aggrieved by the same, the present writ petition came to be filed.

The respondents filed counter opposing the same on the ground that as the petitioners failed to satisfy the conditions stipulated in G.O.Ms.No.212, Finance & Planning, dated 22.04.1994, the services of the petitioners cannot be regularized.

Learned counsel for the petitioners tried to impress upon the Court by contending that though there was a direction by this Court in the writ appeals for regularization of services of the petitioners, which was confirmed in the S.L.P., till date the same has not been complied with. It is to be noted that in earlier round of litigation, the petitioners filed writ petitions

seeking minimum time scale and regularization of services. A learned Single Judge as well as a Bench of this Court rejected the request of the petitioners with regard to the regularization of services. However, in Writ Appeal No.824 of 1999 a bench of this Court directed the Corporation to regularize the services of the petitioners in accordance with rules. Therefore, there is no positive direction by the Bench directing the respondents to regularize the services of the petitioners. It is to be noted that the proposal sent by the second respondent to the first respondent for creation of posts is still pending consideration before the Government. Therefore, the request of the petitioners with regard to the regularization of their services cannot be considered in view of the orders of the Court. However, the respondents shall consider the case of the petitioners for regularization of service as and when vacancies arise, to which the counsel for the respondents did not dispute the same.

Accordingly, the writ petition is disposed of, directing the first respondent to consider the case of the petitioners for regularization of the services as and when sanctioned post fall vacant/available, in accordance with law. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

13.08.2015
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