

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.9716 of 2003

ORDER:

This writ petition is filed to declare proceedings No.1863/2000/E, dated 28.04.2003 issued by respondent are illegal, arbitrary and consequently direct respondent to regularize the services of petitioners.

2. According to petitioners, they are appointed as N.M.R/Assistants in the respondent's organization w.e.f. 01.01.1991 and they are continuously working in the organization without any break. According to petitioners, first petitioner has completed more than 12 years of service as Assistant and second petitioner has completed 8 years of service as watchman respectively, but all of a sudden, respondent issued proceedings dated 28.04.2003 dismissing both of them from service w.e.f. 01.05.2003 and that first petitioner received impugned order on 12.05.2003 and whereas second petitioner received impugned order on 07.05.2003. According to petitioners, as per Government Order in G.O.Ms.No.212, dated 22.04.1994, both petitioners are entitled to be regularized, but respondent instead of regularization, dismissed both petitioners from service and that action is totally illegal and arbitrary and according to petitioners, that they have no other alternative remedy except invoking the jurisdiction of this Court under Article 226 of Constitution of India.

Learned advocate for petitioners submitted that without issuing any notice and without following any procedure, respondent terminated the services of petitioners through proceedings dated 28.04.2003, which is contrary to the terms of Government Orders in G.O.Ms.No.212, dated 22.04.1994.

I have perused the impugned order dated 28.04.2003 and also

G.O.Ms.No.212 dated 22.04.1994. As seen from the impugned order, the Marketing Society was running in losses as there was no sufficient business to the society and the society is not in a position to meet the expenditure of establishment, for that, the Managing Committee in the General Body meeting held on 10.03.2003 passed a resolution to terminate the services of 5 N.M.Rs/Assistants working temporarily on a consolidated pay in the society, and in pursuance of the minutes of the general body, proceedings dated 28.04.2003 were issued. Here petitioners mainly rely on G.O.Ms.No.212, dated 22.04.1994. According to this G.O., Government has decided to regularize services of such persons, who worked continuously for a period of 5 years and are continuing as on 25.11.1993 subject to fulfillment of certain conditions. So those who have completed continuous service of minimum period of 5 years prior to 25.11.1993 and continuing to work as on that date are alone entitled to be regularized provided those candidates fulfil the six conditions incorporated in the G.O.

From the affidavit of petitioners, it is their case that they were appointed in the respondent organization on 01.01.1991 which means they have not put up the minimum qualifying service of 5 years as on 25.11.1993 to be regularized in terms of G.O.Ms.No.212 subject to further fulfillment of other six conditions. When petitioners have not put up the minimum qualifying service of 5 years, their contention that they are entitled for the benefits of G.O.Ms.No.212 cannot be accepted. Petitioners might have working for 12 years and 8 years respectively as on the date of filing of the writ petition, but that is not the criteria to extend the benefits of G.O.Ns.No.212. As petitioners have not put in minimum qualifying service of 5 years in terms of G.O.Ms No.212 dated 24.02.1994, I am of the view that claim of petitioners basing on that G.O. cannot be sustained.

For these reasons, I am of the view that the writ petition is devoid of merits and liable to be dismissed.

Accordingly, this Writ Petition is dismissed. No costs.

Miscellaneous Petitions pending in this writ petition, if any, shall stand closed.

S. RAVI KUMAR, J

Date: 07-11-2015.

gvl