

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.22144 of 2010

% 13.10.2015

Between:

G.Venkatachalam,
S/o Late G.V.S.Prakasham
and six others.

..... Petitioners

And:

\$ The Govt of A.P., repled by the
Principal Secretary, PR & RD Department,
Hyderabad and four others.

.....Respondents

< Gist:

> Head Note:

! Counsel for the Petitioners: Mr. D.Linga Rao
For Mr. V.Ravichandran

^ Counsel for the Respondents: GP for Panchayat Raj (AP)

? Cases Referred:

NIL

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

*FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH*

WRIT PETITION No.22144 of 2010

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JUDGMENT PRONOUNCED ON 13.10.2015

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

1. Whether Reporters of Local newspapers : **Yes/No**
may be allowed to see the
Judgment? Yes/No

2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : **Yes/No**

3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? : **Yes/No**

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Counsel for the Petitioners: Mr. D.Linga Rao
For Mr. V.Ravichandran

Counsel for the Respondents: GP for Panchayat Raj (AP)

The Court made the following:

ORDER:

The petitioners were appointed as Daily Wage Workers by respondent No.3 during 1984 to 1988. In pursuance of G.O.Ms.No.212, Finance & Planning (FW.PC.III) Department, dated 22.4.1994, which envisaged regularisation of Daily Wage Workers/NMRs, subject to their satisfying the conditions stipulated therein, respondent No.3 has sent proposals to respondent No.1 on 17.9.1997 for regularisation of services of the petitioners. The said proposals were kept pending with respondent No.1 till 10.4.2003 when it has issued G.O.Ms.No.101, Panchayat Raj and Rural Development (RDII) Department, dated 10.4.2003, directing respondent No.3 to regularise the services of the petitioners with prospective effect i.e., from the date of issue of the said G.O. in the categories of Junior Assistant, Typist, Driver, Record Assistant and Sweeper respectively.

It is the pleaded case of the petitioners that after their regularisation, they submitted representations to the respondents for their regularisation with retrospective effect. One such representation is dated 23.10.2008 made to respondent No.1, wherein they have *inter alia* stated that though in their case, proposals were sent by respondent No.3 in the year 1997, respondent No.1 has taken more than 5½ years for issuing orders regularizing their services,

while in case of Daily Wage Workers working in the District Rural Development Agencies in Prakasam, Adilabad and Kurnool Districts, orders for regularization were issued without any delay and thereby, a discriminatory treatment was meted out to the petitioners. This representation was rejected by respondent No.4, vide memo No.5528/RD.SHGs.V(1)/2007, dated 05.3.2010. Feeling aggrieved by this memo, the petitioners filed this Writ Petition.

On behalf of the respondents, respondent No.4 filed a counter-affidavit., wherein a distinction is sought to be made between the petitioners on the one side and the Daily Wage Workers belonging to the Districts of Prakasam, Adilabad and Kurnool on the other side by stating that in the latter's case, the proposals were submitted in full shape with all required material and that, no litigation was pending, while in the case of the petitioners, Writ Petition No.7371 of 1990 was pending and the same was disposed of on 24.8.2000 only and that G.O.Ms.No.212, dated 22.4.1994, has not envisaged regularisation of the services with retrospective effect.

It is not in dispute that in respect of the Daily Wage Workers of Prakasam District, proposals were sent on 18.11.1995 and regularisation orders were issued on 04.5.1996; in case of Kurnool District, proposals were sent on 15.5.1997 and regularisation orders were issued on 26.8.1997 and in case of Adilabad District, proposals were sent on 30.12.1995/06.8.1996 and regularisation orders were issued on 23.11.1986. Though it is stated in the counter-affidavit that proposals were sent in respect of all the said three Districts in respect of the Daily Wage Workers in full shape, no specific averment is raised as to whether such proposals were not sent in respect of the Daily Wager Workers of East Godavari District, and if so, what was the nature of deficiencies and when those deficiencies were made good.

As regards the ground of pendency of Writ Petition No.7371 of 1990, a perusal of order, dated 24.8.2000 passed in the said Writ Petition shows that even during the pendency of the said Writ Petition, proposals were sent by respondent No.3 on 02.10.1997 to the Commissioner, Rural Development, Hyderabad and this Court has directed respondent No.1 to consider the petitioners' cases for regularisation if they satisfy the criteria laid down in G.O.Ms.No.212, dated 22.4.1994.

Having regard to the nature of the said Writ Petition and the grievance expressed by the petitioners therein, I am of the opinion that there was no legal impediment whatsoever for respondent No.1 to consider the petitioners' cases for regularisation of their services on account of pendency of the said Writ Petition. The only aspect which needed to be considered by respondent No.1 was whether the petitioners have satisfied the requirements of G.O.Ms.No.212, dated 22.4.1994 or not. Therefore, respondent No.1 cannot take shelter under the pendency of Writ Petition No.7371 of 1990 for its failure to approve the proposals sent by respondent No.3 for regularisation of the services of the petitioners for more than 5½ years.

Mr. D.Linga Rao, learned counsel representing Mr. V.Ravichandran, learned counsel for the petitioners, has invited this Court's attention to G.O.Rt.No.201, Revenue (Endowments.I) Department, dated 11.02.2010, a perusal of which shows that initially, the services of one P.Anki Reddy, Driver, Office of the Commissioner, Endowments Department, were regularised with effect from 17.6.2006. Subsequently, he has made a representation to respondent No.1 for giving him the benefit of regularisation with retrospective effect from 14.11.1994, on par with 17 persons working in Buddha Purnima Project on daily wage basis. Considering the said request, the State Government has regularised the services of said P.Anki Reddy with effect from 14.11.1994

as was done in case of 17 similarly situated persons.

Under G.O.Ms.No.212, dated 22.4.1994, a person cannot claim regularisation with retrospective effect. Under the said G.O., a daily wage worker who has completed five years of service as on 25.11.1993 and fulfilled other conditions stipulated therein is entitled to regularisation of his/her service. Thus, a daily wage worker has no right to claim that regularisation of his service must be with retrospective effect i.e., from the date of completion of five years of his service. However, the petitioners' claim for regularisation of their services with retrospective effect is based on a different ground, which, in my opinion, bears merit.

As noted herein before, while in case of the Daily Wage Workers working in Prakasam, Kurnool and Adilabad Districts, prompt action was taken by respondent No.1 in regularising their services, in case of the petitioners, it has taken nearly 5 ½ years to regularise their services. Though the petitioners are similarly situated as the Daily Wage Workers of Prakasam, Kurnool and Adilabad Districts, the long delay in regularising their services has put them to a great disadvantage as, the latter were given the benefit of regularisation much ahead of the regularisation of the petitioners. Thus, besides causing monetary loss to the petitioners, they are denied the benefit of valuable service.

In the facts and circumstances of the case, this Court is of the opinion that the petitioners are entitled to at least the benefit of the length of their service, if not, the monetary benefits with effect from the expiry of reasonable period from the date of sending the proposals for regularisation of their services by respondent No.3 to respondent No.1. Even if three months is taken as reasonable period for approval of the proposals, as was done in the case of the Daily Wage Workers of Kurnool District, the petitioners are entitled to notional service benefits without monetary benefits with effect from

01.01.1998 till 10.4.2003 when their services were regularised.

For the above-mentioned reasons, the Writ Petition is partly allowed by directing the respondents to give the notional benefit of service to the petitioners from 01.01.1998 to 10.4.2003 for the purpose of future increments and retirement benefits.

As a sequel to disposal of the Writ Petition, WPMP.No.38692 of 2012 shall stand disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

13th October 2015

Note:

LR copies to be marked.

B/o

DR