

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No. 18550 OF 2014

O R D E R:

This Writ Petition is filed to declare the action of the respondents in not regularizing the services of the petitioners in terms of letter dated 14.10.2012 as illegal and consequently direct the respondents to regularize the services of the petitioners forthwith with all consequential benefits.

2. It is the case of the petitioners that they applied for selection as a Driver in pursuance of the employment notification dated 1.12.2004, underwent necessary process of selection and selected as HMV Drivers on contract basis. Later they joined in service on 2.4.2005 and working in the same capacity on contract basis but their services were not regularized till today.

3. It is the specific contention of the petitioners that through the employment notification issued by the Corporation the petitioners were recruited into service as contract employees and the Corporation by its proceedings dated 20.1.2013 had ordered that the contract employees are entitled to be paid equal pay for equal work, on par with the regular employees and the action of the Corporation in not implementing the same in the case of the petitioners is illegal and arbitrary. Petitioners also contended that the Corporation has arrived at a settlement with the Union and from the letter dated 14.10.2012 addressed by the Corporation to the Union, it is clear that man power agency employees will be converted into contract workers and the contract workers will be converted into regular employees in a phased manner and employees were regularized in service. Therefore, the action of the respondents in not regularizing the services of the petitioner is illegal and prayed this Court to regularize the services of the petitioners.

4. Counsel appearing for respondents filed counter affidavit contending that petitioners were initially appointed on contract basis after following necessary procedure for selection but in the year 2005 as there was a ban to engage services of the contract employees, the services of the petitioners were engaged on out-sourcing basis and as such the petitioners were working as employees on out-sourcing basis thereby there was no initial contract and the same was ceased to exist and therefore, the petitioners are not entitled for regularization as on the date of filing the Writ petition and any other benefits and prayed for dismissal of Writ Petition.

5. During the course of hearing, Sri M. Janardhan Rao, learned counsel appearing for petitioners submits that the economic conditions of the State are not permitting to regularize the services of contract employees, therefore, requested the Court to direct the respondents to pay 'equal pay for equal work' on par with the regular employees in pursuance of the proceedings of the Corporation dated 20.1.2013 as the petitioners are entitled to claim 'equal pay for equal work' on par with the regular employees, whereas the counsel appearing for respondents opposed the request of the counsel appearing for petitioners.

6. In view of the submission of the learned counsel appearing for petitioners, I need not

examine the question of regularization of the petitioners at this stage. The only question to be examined is entitlement of the petitioner to claim 'equal pay for equal work' on par with regular employees. In para 55 of judgment in ***Secretary, State of Karnataka vs. Umadevi***^[1] similar question came up for consideration and Court held that the daily wage employees are entitled to equal pay on par with regular employees but not other benefits. Counsel appearing for petitioners has drawn the attention of this Court to the proceedings dated 20.1.2013 issued by the Andhra Pradesh Tourism Development Corporation Limited making applicable the concept of 'equal pay for equal work' to contract employees of the APTDC who were on rolls as on 28.6.2012 i.e., the date of Board Resolution and is implemented from 1.1.2013.

7. Thus as seen from the Circular, the contract employees are entitled to 'equal pay for equal work' on par with regular employees, who are on rolls as on 28.6.2012. In the present case, the petitioners joined in service on 2.4.2005 on contract basis after undergoing regular proper process of selection and worked as such till 31.5.2006. Therefore, from 28.6.2012, the petitioners are entitled to claim 'equal pay for equal work' in pursuance of the proceedings dated 20.1.2013. For the later period, the services of petitioners were engaged on out sourcing basis and the services of out sourcing employees are not covered by the said proceedings dated 20.01.2013. Therefore, the respondents are directed to pay salary to the petitioner in terms of proceedings dated 21.1.2013.

8. With the above observation, the Writ Petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, pending if any, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Date: 20.04.2016
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^[1] (2006) 4 SCC page 1