

**THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE DR. JUSTICE SHAMEEM AKTHER**

WRIT PETITION No.11965 OF 2017

ORDER: *(Oral)*

(Per Hon'ble Sri Justice SURESH KUMAR KAIT)

Vide the present petition, the petitioners have assailed the order dated 27.10.2014 passed in O.A.No.3540 of 2012 and O.A.No.1522 of 2012, whereby the O.A. filed by them was partly allowed.

2. The petitioners were initially appointed in the year 1992 in erstwhile Alwal Gram Panchayat, Ranga Reddy District and thereafter the said Alwal Gram Panchayat has been upgraded as Alwal Municipality during the year 1987. Accordingly, the services of the petitioners were taken over by Alwal Municipality. Since their services were not regularized, they approached erstwhile A.P. Administrative Tribunal by filing R.P.No.3031/1989 for regularization of their services and also payment of minimum time scale. Vide order dated 27.03.1989 the above R.P. has been disposed of directing the respondents therein to consider their cases for regularization of their services in terms of G.O.Ms.No.1320, MA, dated 15.12.1981 and G.O.Ms.No.300, MA, dated 24.06.1985, and further directed to pay wages at the same rates as applicable to the regular employees holding corresponding post. Thereafter, they were paid minimum time scale vide proceedings No.3039/89, dated 01.05.1989 as per the

direction in the above R.P pending regularization. When the services of the petitioners were not regularized, then they constrained to approach this Court by filing W.P.No.4966 of 1991 for implementation of the order passed in the above R.P.

3. Vide order dated 04.08.1992, this Court passed the following order:

“The learned Government Pleader appearing for respondents 2 and 3 states that the Government is actively seized of the matter and that appropriate orders will be passed to facilitate the implementation of the order of the Tribunal dated 27.3.1989 without further loss to time.

In view of the fact that most of the ground work was already completed, the respondents are directed to complete the implementation of the orders of the AP Administrative Tribunal dated 27.3.1989 made in RP No.3031/89, within two months from the date of receipt of a copy of this order.”

4. Learned counsel appearing on behalf of the petitioners submits that in spite of specific orders granted by this Court, no steps have been taken by the respondents. While things stood thus, the Government has issued G.O.Ms. No.212, F & P, dated 22.04.1994 imposing certain conditions for regularization of services of NMRs and their services were not regularized on the ground that there are no clear vacancies in terms of G.O.Ms.No.212, dated 22.04.1994, though the said G.O. was not applicable in their case. Subsequently, the periodical increments were released vide proceedings No.A/5086/98, dated 10.02.2000 to them.

Subsequently, they approached the Hon'ble A.P. Administrative Tribunal by filing O.A.No.3606 of 2004 for regularization of their services in terms of orders passed by the erstwhile tribunal in R.P.No.3031/1989 dated 27.03.1989, and also as per the orders of this Court passed in W.P.No.4966/1991 dated 04.08.1992 and in terms of G.O.Ms.No.1320, MA, dated 15.12.1981 and G.O.Ms.No.300, MA, dated 24.06.1985, from the date of completion of five years of service by creating supernumerary post in terms of G.O.Ms.No.1211, MA, dated 18.10.1989, as done in the case of other municipalities vide G.O.Ms.No.1, dated 01.01.1998. Thereafter, the said O.A was disposed of with a direction to consider the case of the petitioners for absorption. Alwal Municipality along with other surrounding municipalities were merged in Municipal Corporation, Hyderabad in April, 2007 and constituted as Greater Hyderabad Municipal Corporation (G.H.M.C) along with assets and liabilities. Accordingly, their services were also taken over by G.H.M.C, Hyderabad.

5. Learned counsel for the petitioners submits that subsequently pay scales of the petitioners were extended as per revised pay scales of 1993, 1999, 2005 and 2010 by the respondents. Accordingly, at the time of absorption, they were drawn more than Rs.19,000/- per month. Thus, the Government has issued G.O.Ms.No.533, MA and UD, dated 29.11.2011, regularizing the services of 306 persons who are

working on NMR basis in G.H.M.C including the services of the petitioners. Subsequently, consequential orders were issued by 3rd respondent on 02.01.2012. Thereafter, their pay has been fixed afresh, after issuing regularization order w.e.f. 10.11.2011 by reducing minimum scale from the date of regularization. Due to the said action of the respondents, the pay has been reduced more than Rs.9,000/- per month from the scale of the petitioners. The said action was challenged before erstwhile tribunal by filing R.P.No.3031 of 1989 dated 27.03.1989.

6. It is pertinent to mention here that the petitioners were initially appointed in the year 1982 onwards on daily wage basis and they are entitled for regularization after completion of 5 years in terms of earlier G.Os issued by the Government i.e., G.O.Ms.No.1320 , MA dated 15.12.1981 and G.O.Ms.No.300, MA dated 24.6.1985 and other G.Os existing during that period and also as per the orders passed in R.P. No.3031/1989 dated 27.03.1989 and also as per the orders of this Court passed in W.P.No.4966 of 1991, dated 04.08.1992.

7. Be that as it may, learned counsel for the petitioners has produced order passed by this Court in W.P.No.1225 of 2016, dated 19.04.2017, which reads as under:

“Sri K.Ramakrishna, learned counsel representing Sri P.Raghavender Reddy, learned counsel for the petitioners, and Ms.P.Radhika, learned counsel representing Sri Chatla Madhu, learned standing counsel for the respondent

Municipal Corporation, are in agreement that the issue arising for consideration in this writ petition is squarely covered by the earlier decision of this Court in W.P.No.41797 of 2015. A copy of the order dated 06.03.2017 passed in the said writ petition is placed on record.

For reasons alike as were mentioned in the aforesaid order and in terms thereof, the writ petition is allowed holding that the petitioners would be entitled to regularization of their services from the date they completed five years of service but would not be entitled to any monetary benefits in terms of arrears of pay. The petitioners would however be eligible for notional fixation of pay and seniority. “

8. Learned counsel appearing on behalf of the Corporation does not dispute the order passed by this Court in the aforesaid Writ Petition and submits that the case of the petitioners was squarely covered by the earlier decision of this Court in W.P. No.41797 of 2015 and W.P.No.1225 and 2016.

9. The order passed in W.P.No.41797 of 2015, reads as under:

“In the light of this authoritative pronouncement by the Supreme Court, as recently as in august, 2015, on the issue of regularization of services under G.O.Ms.No.212 dated 22.04.1994, we have no hesitation in holding that the Tribunal erred in denying relief to the petitioners herein insofar as their claim for regularization from an anterior date was concerned. They would therefore be entitled to regularization of their services from the date they completed five years of service but would not be entitled to any monetary benefits in terms of arrears of pay. They would however be eligible for notional fixation of pay and seniority.”

10. Accordingly, the Writ Petition is allowed holding that the petitioners would be entitled to regularization of their services from the date they completed 5 years of service but would not be entitled to any monetary benefit in terms of arrears of pay in view of G.O.Ms.No.212, dated 22.04.1994. The petitioners would however be eligible for notional fixation of pay and seniority.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE SURESH KUMAR KAIT.

Dr. JUSTICE SHAMEEM AKTHER.

Date : 12-06-2017
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