

HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE Dr.JUSTICE SHAMEEM AKTHER

WRIT PETITION No.16504 of 2008

ORDER: (Per Suresh Kumar Kait, J)

Vide the present petition, petitioners have challenged order dated 31.03.2008 passed in O.A.No.572 of 2007, whereby the said O.A., filed by the respondent herein has been allowed.

2. Respondent herein was initially appointed as Sweeper-cum-Water Carrier in Koratla Range, on 17.08.1975. Since then, he has been continuously working. After 11 years, he submitted representation on 22.10.1986, 23.07.1987 and 15.10.1987 for enhancement of his salary. Accordingly, petitioner's salary was enhanced from Rs.75/- to Rs.225/- per month. Subsequently, several persons similarly situated as that of the respondent, were regularized as Sweeper/Sepoy in Hyderabad Collectorate. The respondent filed representation bringing all the facts to the notice of the petitioners on 26.12.1990. The 2nd petitioner, vide his proceedings dated 05.01.1999, directed the Inspector of Central Excise, Dichpally, Shankernagar, Kamareddy, Domakonda, to submit the service particulars of the contingent paid casual workers working in the Department. After receiving information from various authorities, the 2nd petitioner addressed letter to the 1st petitioner, vide his proceedings dated 13.01.1999, to consider the case of the respondent for granting temporary status, as he has completed more than 206 days of service continuously as full time casual labour prior to 1993. In spite of that, even after a lapse of 8 years, petitioners had not taken steps to regularize the services of the respondent. Further case of the respondent is that one Mr.G.Rajesham, who is working as Sweeper in Peddapalli Range, approached the Tribunal by filing

O.A.No.561 of 1999 seeking temporary status and regularization. The tribunal allowed the said O.A., vide judgment dated 27.10.1999. The respondent has rendered 32 years of service and fulfilled the criteria envisaged in the Casual Labourers (Grant of Temporary Status & Regularization) Scheme, 1993 and, therefore, petitioners are bound to confer temporary status on the respondent with effect from 01.09.1993 and that denial of the same is against the prescribed rules and the scheme of the Government.

3. The case of the petitioners herein is that the respondent is barred by limitation inasmuch as he was informed vide letter dated 23.07.1993 that regularization of services of casual workers in the grade of Group-D can be considered only in such cases where the casual worker was appointed on fulltime basis and the scheme called “Casual Labourers (Grant of Temporary Status & Regularization) Scheme, 1993” came into force with effect from 01.09.1993. After a period of 14 years, the respondent is filing O.A., which is barred by limitation. Petitioners further pleaded that respondent has been working as part-time safaiwala during 1984 in the Central Excise, Koratla Range Office and on his request for regularization, he was informed by letter dated 23.07.1993 of Nizamabad Division, that he is not entitled for the benefit of the scheme and the said scheme applies only to those who were appointed on fulltime basis.

4. We have heard learned counsel for the parties.

5. It is not in dispute that respondent has been working in petitioner's department since 1975. It is also not in dispute that Government of India introduced a scheme called “Casual Labourers (Grant of Temporary Status & Regularization) Scheme, 1993” in order to confer temporary status on the contingent workers and it has come into effect from 01.09.1993. It is not also

in dispute that, according to the said scheme, all those contingent workers who had completed continuous service of 206 days prior to 01.09.1993 are entitled for the benefits of the said scheme.

6. It is admitted by the petitioners that the Deputy Commissioner (P&V) Central Excise, Hyderabad-I Commissionerate, called for the details from the Assistant Commissioner, Central Excise, who, in turn, submitted particulars of all the 10 contingent workers including the respondent herein. Therefore, the contention of the petitioners that respondent was not a fulltime casual worker by 1993 and was only a part-time worker and he was made fulltime worker in 1995 cannot be accepted.

7. It is also not in dispute that those who have been working prior to 1993 had approached the Tribunal and filed several O.As. In those O.As., petitioners have taken the same defence and the same has not been accepted by the Tribunal. Accordingly, the Tribunal allowed the O.As., and directed the petitioners to confer temporary status on all the employees who are similarly situated as that of the respondent herein. In fact, the respondent stands on much better footing than those persons who filed O.As., and sought direction from the Tribunal. Of course, the contention of the petitioners is that petitioners challenged the orders of the Tribunal in all the O.As., before this Court in W.P.Nos.14715 of 2005 and batch and W.P.Nos.7258 of 2006 and obtained stay. However, admittedly, the order of the Tribunal passed in O.As., has not been set aside so far.

8. In view of the above, the Tribunal opined that mere obtaining stay does not amount to setting aside the order of the Tribunal. The Tribunal found that similarly situated contingent workers as that of the respondent are entitled for

the benefit of the scheme and directed the petitioners to confer temporary status on them.

9. We note, W.P.Nos.14715 of 2005 and batch and W.P.Nos.7258 of 2006 and batch, have been disposed of by this Court by order dated 03.08.2006 by recording that, except one applicant, all others had been engaged only after 01.09.1993, as such, they were not entitled even for grant of temporary status under the earlier scheme of regularization. But, respondent in the present case was appointed in the year 1975. Since then, he has been continuously working in the petitioners-department. In addition to the above, his salary was enhanced from Rs.75/- to Rs.225/- per month. Thereafter, he filed representations bringing all the facts to the notice of the petitioners on 26.12.1990. The 2nd petitioner, vide his proceedings dated 05.01.1999, directed the Inspector of Central Excise, Dichpally, Shankernagar, Kamareddy, Domakonda, to submit the service particulars of the contingent paid workers working in the Department. In view of the above, we find no illegality in the order of the Tribunal, warranting interference in this petition filed under Article 226 of the Constitution of India.

10. Petition is accordingly dismissed. As a sequel, miscellaneous petitions if any pending therein stand closed. No order as to costs.

SURESH KUMAR KAIT, J

Dr.SHAMEEM AKTHER, J

July 19, 2017
MRR