

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE JUSTICE N.BALAYOGI**

WRIT PETITION NO.20635 OF 2012

ORDER (Per Hon'ble Sanjay Kumar, J)

The State of Andhra Pradesh and its Commissioner & Director of Municipal Administration filed this writ petition aggrieved by the order dated 22.09.2011 passed by the Andhra Pradesh Administrative Tribunal in O.A.No.7911 of 2011. The said O.A. was filed by respondents 1 to 8 herein seeking a declaration that the action of the respondent authorities in not granting them seniority for the service rendered on daily wage basis from the date of completion of five years or from 25.11.1993 without any monetary benefits and the failure in counting the said service for the purpose of qualifying service for fixing pension was illegal. They also sought a consequential direction to the authorities to grant them seniority and to reckon the qualifying service for fixation of pension by counting the service rendered on daily wage basis from the date of completion of five years or from 25.11.1993 in terms of G.O.Ms.No.212 dated 22.04.1994.

It is not in dispute that the services of respondents 1 to 8 were regularised vide G.O.Rt.No.1618 dated 11.12.2009 prospectively i.e., from the date of issuance of the orders. By the order under challenge, respondents 1 to 8 herein were held entitled to count the period spent on daily wage service for the purpose of qualifying service for fixing pension in terms of G.O.Ms.No.212 dated 22.04.1994. They were however held disentitled to arrears of pay but only to notional fixation of pay and seniority. The authorities were directed to issue appropriate orders in terms of these directions within a time frame.

By order dated 10.07.2012, this Court granted interim suspension of the order passed by the Tribunal.

W.V.M.P.No.2424 of 2013 was filed by respondents 1 to 8 to vacate the above order.

Heard learned Government Pleader for Services (AP) appearing for the petitioners and Sri P.Raghava Reddy, learned counsel for respondents 1 to 8.

Sri P.Raghava Reddy, learned counsel for respondents 1 to 8 placed reliance on the Judgment of the Supreme Court in **B.Srinivasulu vs. Nellore Municipal Corporation**¹. Therein, the Supreme Court was considering the issue as to the date from which the appellants before it could seek regularisation of their services under G.O.Ms.No.212 dated 22.04.1994. The Tribunal granted relief to them by directing their regularisation in service with effect from the dates on which they completed five years of service in terms of G.O.Ms.No.212 dated 22.04.1994 but denied them monetary benefits. This order was confirmed in the first instance by the High Court but upon a review petition being filed, the order was modified to the extent that the appellants in the said case were held entitled to regularisation of services only from the date on which they filed the O.A. Faced with this situation, the Supreme Court observed that it found it difficult to accept the reasoning adopted by the High Court as the right to seek regularisation flowed from G.O.Ms.No.212 dated 22.04.1994 and once the appellants rendered the requisite service in terms of G.O.Ms.No.212 dated 22.04.1994 but the authorities kept quiet without regularising their services, they could not be denied relief. The Supreme Court held that the appellants were entitled to be

¹ Civil Appeal No.6318 of 2015, dated 17.08.2015

regularised in service with effect from the date that they completed five years continuous service as was laid down in its earlier decision in **District Collector vs. M.L.Singh²**.

In the light of this authoritative pronouncement by the Supreme Court, as recently as in August, 2015, on the issue of regularisation of services under G.O.Ms.No.212 dated 22.04.1994, the issue as to the entitlement of respondents 1 to 8 to seek regularisation under the said G.O. stands settled. They are therefore entitled to regularisation of services as per the order passed by the Tribunal with effect from the date they completed five years of service but they would not be entitled to any monetary benefits in terms of arrears of pay but would only be eligible for notional fixation of pay and seniority.

The writ petition is therefore devoid of merit and does not warrant interference with the order passed by the Tribunal. The interim order dated 10.07.2012 passed in W.P.M.P.No.26459 of 2012 shall stand vacated.

The writ petition is accordingly dismissed. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

N.BALAYOGI, J

31st JANUARY, 2017

PLN

² (2009) 8 SCC 480