

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**W.P.No.2227 OF 2001****ORDER**

Heard Ms.K.Kiranmayee, learned counsel, representing Sri K.Rama Mohan, learned counsel appearing for the petitioner and learned Government Pleader for Finance and Planning appearing for the respondents.

This writ petition is filed seeking to issue a writ of Certiorari to call for the records relating to and connected with the impugned proceedings dated 6.7.1999 and quash the same as arbitrary and illegal and consequently to direct the respondents to regularize the services of the petitioner as Junior Assistant/Section Writer/Typist/Data Entry Operator.

It is the case of the petitioner that he was initially appointed as NMR on 4.1.1992, on daily wage basis; that he has submitted several representations to the respondents to regularize his services in terms of G.O.Ms.No.212, dated 22.4.1994; that based on such representations, the 3rd respondent- Project Director has recommended the case of the petitioner for regularization to the Commissioner for Rural Development *vide* letter dated 10.09.1998; that when the respondents were not regularizing his services, the petitioner along with two others filed W.P.No.7447 of 1996 before this Court. This Court while disposing of the said writ petition on

22.02.1999, directed the respondents to consider the case of the petitioner for regularization, without insisting upon the condition that one must complete five years of service as on 25.11.1993 in terms of G.O.Ms.No.212. In pursuance thereof, the respondents had considered the case of the petitioner and rejected his case *vide* proceedings dated 6.7.1999 on the ground that the petitioner had not fulfilled the conditions laid down in G.O.Ms.No.212. Challenging the said rejection, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that for all these years, the petitioner has been continuing in service as NMR and the action of the respondents in not regularizing the services of the petitioner as arbitrary and illegal. He further submits that various other individuals, who were initially appointed as NMR workers, along with the petitioner, were regularized, ignoring his case and hence, the writ petition should be allowed directing the respondents to regularize the services of the petitioner by duly considering the fact that the petitioner has put in nearly 25 years of service.

Learned Government Pleader contends that there cannot be a direction to regularize the services with retrospective effect as the petitioner has not fulfilled the conditions as set

out in G.O.Ms.No.212 and hence, his case cannot be considered for regularization.

I have considered the rival submissions made by the learned counsel on either side.

It is not disputed by the learned Government Pleader that the petitioner has been continuously working as NMR.

Even as per the latest judgment of the Apex Court in *State of Karnataka & ors vs. Uma Devi & ors*¹, the persons, who are working for long spells on NMR basis, deserve to be considered for regularization by framing a scheme as one time measure. In view of the fact that the petitioner has been discharging duties on NMR for 25 long years, he deserves to be considered for regular appointment.

During the course of hearing, this Court posed a question with regard to the age of the petitioner, for which, learned counsel for the petitioner submits that she is not in a position to contact her client. Either in the cause title or in the affidavit filed in support of the writ petition, the age of the petitioner was not mentioned.

If the petitioner is continuing as on today and has not crossed the age of superannuation, the respondents are bound to consider the case of the petitioner for regularization.

¹ (2006) 4 SCC 1

Therefore, the Writ Petition is disposed of directing the respondents to consider the case of the petitioner for regularization in terms of G.O.Ms.No.212 by duly considering the fact that he has been working since 25 years and has not crossed the age of superannuation. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

12th December, 2017
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