

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

**W.P Nos.14457 of 2010; 34753, 35502, 37432, 37521,
37522, 37976, 38457, 39109 & 39685 of 2012 & 12547 of 2013**

W.P.No.14457 of 2010

Between :

Atlur Krishnaiah, S/o. Channaiah,
Aged about 39 years, Occ: Messenger-cum-
Sweeper, R/o. Atlur, Kadapa District
and eight others ... Petitioners

And

The Chairman, Andhra Pragathi
Grameena Bank, Head Office,
Kadapa and others ... Respondents

DATE OF JUDGMENT PRONOUNCED : 27.04.2017

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

1. Whether Reporters of Local Newspapers : No
may be allowed to see the Judgments ?
2. Whether the copies of judgment may be : Yes
marked to Law Reporters/Journals
3. Whether Their Lordship wishes to : No
see the fair copy of the Judgment ?

***HONOURABLE SRI JUSTICE P. NAVEEN RAO**

+ W.P Nos.14457 of 2010; 34753, 35502, 37432, 37521,
37522, 37976, 38457, 39109 & 39685 of 2012 & 12547 of 2013

% 27.04.2017

#Atlur Krishnaiah, S/o. Channaiah,
Aged about 39 years, Occ: Messenger-cum-
Sweeper, R/o. Atlur, Kadapa District
and eight others ... Petitioners

And

The Chairman, Andhra Pragathi
Grameena Bank, Head Office,
Kadapa and others ... Respondents

!Counsel for the petitioners : Sri Penjuri Venu Gopal
Sri G. Ramachandra Reddy
Sri Kasa Jaganmohan Reddy
Sri S. Gopal Rao

Counsel for the Respondents : Smt. V. Uma Devi
Learned Standing Counsel

<Gist :

>Head Note:

? Cases referred:

1. (2006) 4 SCC 1
2. (2009) 5 SCC 65
3. 2003 3 LLJ 937
4. 2010 (5) ALT 652 (DB)
5. (1987) 3 SCC 308
6. (1996) 6 SCC 216
7. (2006) 8 SCC 111
8. (2010) 9 SCC 247
9. (2015) 8 SCC 265
10. (2014) 7 SCC 223

HONOURABLE SRI JUSTICE P. NAVEEN RAO

**W.P Nos.14457 of 2010; 34753, 35502, 37432, 37521,
37522, 37976, 38457, 39109 & 39685 of 2012 & 12547 of 2013**

Date: 27.04.2017

W.P.No.14457 of 2010

Between :

Atlur Krishnaiah, S/o. Channaiah,
Aged about 39 years, Occ: Messenger-cum-
Sweeper, R/o. Atlur, Kadapa District
and eight others

... Petitioners

And

The Chairman, Andhra Pragathi
Grameena Bank, Head Office,
Kadapa and others

.... Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P. NAVEEN RAO

**W.P Nos.14457 of 2010; 34753, 35502, 37432, 37521,
37522, 37976, 38457, 39109 & 39685 of 2012 & 12547 of 2013**

COMMON ORDER:

In all these matters, petitioners are aggrieved by the decision of Andhra Pragathi Grameena Bank (Bank), in restricting the consideration only to candidates sponsored by the District Employment Exchange/ District Sainik Welfare Board/specialised agencies in the process of recruitment to the post of Office Attendants (Multipurpose) and pray to issue directions to consider them without such sponsorship. In W.P.No.14457 of 2010, in addition, petitioners also seek direction to regularise/ absorb them against the post of Messenger-cum-Sweeper or any other suitable last grade post in preference to the freshers in the recruitment.

2. Petitioners in W.P.No.14457 of 2010 are claiming to be working with the respondent – Bank. Petitioners in W.P.Nos. 37521, 37522 and 38457 of 2012 claimed to have worked as temporary sweepers. Petitioners in W.P.Nos.35502, 37432, 34753, 37976, 39109, 39685 of 2012; 12547 of 2013, are all unemployees. In W.P.Nos.35502, 37432, 34753, 39685 of 2012 and 12547 of 2013, interim orders are granted. In W.P.Nos.37521, 37522, 39109 and 38457 of 2012 interim orders were not granted. In W.P.No.37976 of 2012, this Court granted stay of finalisation of selections. In W.P.No.14457 of

2010, series of orders are passed, which are noted in the subsequent paragraphs.

3. In W.P.No.14457 of 2010, petitioners are nine in number. Initially they were appointed as Messenger-cum-Sweeper between 1993 and 1994 and have been continuously working in various branches of the respondent – Bank. According to the petitioners, their services were utilised for 12 hours during festival days, holidays and Sundays in the Bank premises as well as in the residents of Area Managers, Managers and Executives. They are all asked to do all menial works including cleaning of toilets. In this Writ Petition, they challenge the letter, dated 01.06.2010, addressed to District Sainik Welfare Board to sponsor candidates for the post of Messenger-cum-Sweeper in Kadapa District. The petitioners challenge this intimation letter primarily on the ground that they have been working in the respondent – Bank branches for long time; have rendered satisfactory service; in recognition of their good service, they were paid bonus also; and therefore their services ought to have been regularised instead of placing indent on District Sainik Welfare Board to sponsor candidates. Petitioners also contend that the terms of indent placed on District Sainik Welfare Board would also indicate that the intention of the respondent – Bank is to exclude petitioners completely and to throw them out from service and induct freshers instead of granting regularization to them. Petitioners placed reliance on the decision of the Supreme Court in the case of **Secretary, State**

of Karnataka and Others Vs.Umadevi (3)¹ in support of their contention that their services should be regularised.

4. Along with the reply affidavit, petitioners filed voluminous documents in support of their claim that they have been continuously engaged, paid wages and also paid bonus. However, instead of regularizing their services directly and only to avoid the claims of the petitioners for regularization, Bank invented the method of engagement through an outsourcing agency and periodically changing the outsourcing agency. However, they contend that though there are changes in the outsourcing agency, petitioners continued to work. Petitioners claim that they belong to Scheduled Caste category and come from lower strata of society; with a fond hope that their services would be regularized, have been rendering dedicated service since 1993-1994.

5. By order dated 23.06.2010 made in W.P.M.P.No.18181 of 2010, this Court directed the respondent – Bank to continue the petitioners on the same terms and conditions on which they were appointed. However, the Court permitted the process of recruitment to go on. Petitioners moved W.P.M.P.No.40273 of 2010 claiming to direct the respondent – Bank to consider the representations submitted by them on 18.11.2010 and to proceed with the ongoing recruitment process for the post of Messenger-cum-Sweeper by relaxing eligibility criteria. This Court by order dated 31.01.2011 directed the respondent –

¹ (2006) 4 SCC 1

Bank to consider the representation dated 18.11.2010 and to dispose of the same within a period of 30 days.

6. Alleging violation of the directions dated 23.06.2010 issued by this Court, petitioners filed C.C.No.821 of 2011. By order dated, 20.04.2012, this Court directed the respondent – Bank to permit the petitioners to participate in the selection process without insisting that their names should be sponsored by the Employment Exchanges/District Sainik Welfare Board and other agencies. The Court also observed that *‘it is always better if the past service and experience is given credence’*. A reading of the order would disclose that the respondent – Bank gave an undertaking and therefore the Court issued orders and directed to complete the selection process as early as possible. On 31.08.2012, the Court passed further orders in the Contempt Case directing the respondents to take all necessary steps and to see that the selection process would be completed within a period of four months from that date.

7. While this Writ Petition is pending and the above directions were issued from time to time, some other persons intending to participate in the selections for appointment to the post of Office Attendants (Multipurpose) instituted several Writ Petitions (which are all disposed of by this common order) claiming that they should be considered for employment without reference to their names being sponsored by the Employment Exchange or District Sainik Welfare Board. In W.P.M.P.No.15476 of 2013 in W.P.No.12547 of 2013, by order dated 24.04.2013,

following the judgment of the Supreme Court in **State of Bihar v. Upendra Narayana Singh**², the Court directed to receive the applications of the petitioners for appointment to the post of Office Attendants (Multipurpose) and to subject them to selection process along with others. The Court also directed to publish a notification in newspapers calling for applications from all eligible candidates. Similar directions were also issued in W.P.M.P.No.44203 of 2012 in W.P.No.34753 of 2012, dated 07.11.2012.

8. W.P.No.37976 of 2012 is filed by three other persons opposing consideration of only such candidates whose names are sponsored by the District Employment Exchange alone without accepting the applications from the qualified candidates. This Court by order dated 10.12.2012 directed not to finalise the selections until further orders.

9.1 In the counter affidavit filed in W.P.No.14457 of 2010, the stout defence of the respondent – Bank is that petitioners were never engaged by the respondent – Bank as claimed by the petitioners and therefore question of regularizing their services by applying the principle laid down by the Supreme Court in **Uma Devi (3)** does not arise.

9.2. By stoutly denying the contentions of the petitioners that they have been working continuously, it is stated that they are not entitled to seek regularization of their services. According to

² (2009) 5 SCC 65

the respondent – Bank, there are regular Messengers-cum-Sweepers and whenever regular employee goes on leave or absents from duty, temporary arrangement is made locally by the concerned bank to undertake maintenance work and as and when such work is undertaken, the person will be paid daily wage. In similar manner, petitioners were engaged as and when there was requirement, but they never worked continuously. It is further asserted that the requirement of this nature is also for a limited period of less than three hours in a day. Some contingent fund is provided with the Branch Manager for up keep of the branch and by utilising this amount such engagement is made. Branch Manager does not issue appointment orders and no record is maintained, as they are utilising the services of locally available persons on a given day where there is requirement. It is contended that respondent – Bank has resorted to recruitment to fill up regular Messenger-cum-Sweeper by strictly following the Regulations governing the employment in the Regional Rural Banks and no deviation can be permitted.

10. The Bank defends its decision to notify through the Employment Exchange as well as District Sainik Welfare Office by referring to the provisions of Regional Rural Bank (Appointment and Promotion of Officers and Other Employees) Rules, 1998, which are the common Rules notified by the Government of India and adopted by the respondent – Bank. These Rules mandate filling up of post of Messenger-cum-

Sweeper only through Employment Exchange, Sainik Welfare Board or any other agency catering to the needs of welfare of various special categories. It is therefore the contention of the respondent – Bank that unless the names of the petitioners are sponsored by the Employment Exchange, they cannot be considered for selections.

11. The facts on record would also make it clear that the respondent – Bank has also notified in daily newspapers on 30.09.2012 calling for applications from eligible candidates for recruitment. The notification also indicates that in addition to the persons, in whose favour orders are granted by the Court, all others would also be considered.

12. Learned Standing Counsel for the respondent – Bank made extensive submissions and placed reliance on several judgments to contend that the respondent – Bank need not resort to open recruitment notification and bank can consider only such of those candidates whose names are sponsored by the Employment Exchange or District Sainik Welfare Board or any other recognized agency. Learned Standing Counsel further contended that recruitment regulations contemplate making recruitment by considering only the candidates sponsored from the agency mentioned above and there is no requirement to go for public notification. Learned Standing Counsel placed heavy reliance on the decisions of the two Division Benches of this Court in **State Bank of India, Zonal office v.**

K. Lakshamma³ and Naveen Kumar v. Chairman and Managing Director, Bharath Dynamics Limited.⁴

13. All the counsel for petitioners placed reliance on the decision of Supreme Court in **Upendra Narayana Singh** (supra).

14. At this stage, it is necessary and expedient to consider precedent decisions of Supreme Court on the issue of considering candidates for employment even if Employment Exchange has not sponsored their names.

14.1.1 In **Union of India v. N. Hargopal⁵**, while repelling the contention that there need not be sponsorship by the Employment Exchange and publication of notification should be issued on the ground that many people do not register with the Employment Exchange, the Supreme Court at paragraph No.9 held as under:

“9. In the absence of a better method of recruitment, we think that any restriction that employment in government departments should be through the medium of employment exchanges does not offend Articles 14 and 16 of the Constitution. With this modification of the judgment of the High Court, the appeals and the special leave petitions are disposed of. No orders are necessary in the writ petition.”

14.1.2 However, it is appropriate to note the observations of the Supreme Court in paragraph No.6. It reads as under:

³ 2003 3 LLJ 937

⁴ 2010(5)ALT 652 (DB)

⁵ (1987) 3 SCC 308

“6. It is, therefore, clear that the object of the Act is not to restrict, but to enlarge the field of choice so that the employer may choose the best and the most efficient and to provide an opportunity to the worker to have his claim for appointment considered without the worker having to knock at every door for employment. We are, therefore, firmly of the view that the Act does not oblige any employer to employ those persons only who have been sponsored by the Employment Exchanges.”

(emphasis supplied)

14.2 In **Excise Superintendent, Malakpatnam, Krishna District, Andhra Pradesh v. K.B.N. Visweshwara Rao**⁶, after considering the earlier judgment of **Haragopal** (supra), the Supreme Court held at paragraph No.6 as under:

“6. Having regard to the respective contentions, we are of the view that contention of the respondents is more acceptable which would be consistent with the principles of fair play, justice and equal opportunity. It is common knowledge that many a candidate is unable to have the names sponsored, though their names are either registered or are waiting to be registered in the employment exchange, with the result that the choice of selection is restricted to only such of the candidates whose names come to be sponsored by the employment exchange. Under these circumstances, many a deserving candidate is deprived of the right to be considered for appointment to a post under the State. Better view appears to be that it should be mandatory for the requisitioning authority/establishment to intimate the employment exchange, and employment exchange should sponsor the names of the candidates to the requisitioning departments for selection strictly according to seniority and reservation, as per requisition. **In addition,**

⁶ (1996) 6 SCC 216

the appropriate department or undertaking or establishment should call for the names by publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio, television and employment news bulletins; and then consider the cases of all the candidates who have applied. If this procedure is adopted, fair play would be subserved. The equality of opportunity in the matter of employment would be available to all eligible candidates.”

(emphasis supplied)

14.3 In ***Arun Kumar Nayak v. Union of India***⁷, this very issue was considered and Supreme Court by following the judgment in ***Excise Superintendent, Malakpatnam*** (supra), at paragraph No.9 held as under:

“9. This Court in Visweshwara Rao [(1996) 6 SCC 216 : 1996 SCC (L&S) 1420] , therefore, held that intimation to the employment exchange about the vacancy and candidates sponsored from the employment exchange is mandatory. This Court also held that in addition and consistent with the principle of fair play, justice and equal opportunity, the appropriate department or establishment should also call for the names by publication in the newspapers having wider circulation, announcement on radio, television and employment news bulletins and consider all the candidates who have applied. This view was taken to afford equal opportunity to all the eligible candidates in the matter of employment. The rationale behind such direction is also consistent with the sound public policy that wider the opportunity of the notice of vacancy by wider publication in the newspapers, radio, television and employment news bulletin, the better candidates with better qualifications are attracted, so that adequate choices are made available and the best candidates would be selected and appointed to subserve the public interest better.”

⁷ (2006) 8 SCC 111

(emphasis supplied)

14.4 Yet again in **State of Bihar** (supra) Supreme Court considered the earlier decisions in **Haragopal** (supra), **Excise Superintendent, Malakpatnam** (supra) and **Arun Kumar Nayak** (supra) and approved the view taken in those three decisions and held at paragraph No.31 as under:

“31. The ratio of the above noted three judgments is that in terms of Section 4 of the 1959 Act, every public employer is duty-bound to notify the vacancies to the employment exchange concerned so as to enable it to sponsor the names of eligible candidates and also advertise the same in the newspapers having wider circulation, employment news bulletins, get announcement made on radio and television and consider all eligible candidates whose names may be forwarded by the employment exchange concerned and/or who may apply pursuant to the advertisement published in the newspapers or announcements made on radio/television.

(emphasis supplied)

15. Several other judgments placed on record do not directly deal with the issue of sponsorship from Employment Exchange as a solitary requirement. The principle laid down by the Supreme Court and the directions issued in the above decisions hold the field.

16. In view of the principle laid down by the Supreme Court in the above decisions, the interim directions issued by this Court in W.P.No.34753 of 2012 and W.P.No.12547 of 2013 to consider the applications submitted by the petitioners therein and also to issue public notification in the newspapers cannot be faulted.

17. Though recruitment notification was issued in the year 2010 and interim directions were issued by this Court in the year 2011-2012, the recruitment process is not carried forward

on the ground that there are inconsistent directions issued by the Court. According to learned Standing Counsel, in the case of petitioners, Court directed to consider them whereas in the case of other candidates from the open market, the Court directed to consider their applications and also directed to issue paper publication and in W.P.No.37976 of 2012 Court stayed finalization of the selection process. She further contended that as the recruitment regulations do not contemplate publication of notification in the newspapers and any decision taken to published in the newspapers would amount to violating the regulations, the recruitment process is not taken further.

18. On a reading of the four judgments on the issue i.e., **Haragopal** (supra), **Excise Superintendent, Malakpatnam** (supra), **Arun Kumar Nayak** (supra) and **State of Bihar** (supra), as noted by the Supreme Court in **State of Bihar** (supra), every employer is duty bound to notify the vacancies not only through Employment Exchange, but also through advertisement in the newspapers having wider circulation, in employment news bulletin and announcements through radio and television and consider all eligible candidates. In view of the subsequent decisions of the Supreme Court and the Three Bench judgment of the Supreme Court in **Excise Superintendent, Malakpatnam** (supra), the respondent – Bank cannot fall back on decision of this Court in **State Bank of India** (supra) and **Naveen Kumar**

(supra) to contend that the consideration is confined only to candidates sponsored from Employment Exchange or District Sainik Welfare Board or Organisations which are established/formed for the welfare of Scheduled Caste/ Scheduled Tribe/disabled persons. The interim directions issued by this Court in some of the writ petitions herein commands acceptance.

19. Having cleared this issue, it is necessary to consider the claims of petitioners in W.P.No.14457 of 2010.

20. On going through the pleadings of petitioners as well as respondent – Bank, following facts are not disputed. Petitioners are engaged from 1993-1994 engaged according to petitioners continuously, and engaged according to respondent – Bank as and when work is required on a daily assessment basis whenever regular employee goes on leave or absent from duty; that there are vacancies and recruitment process is undertaken; though notification was issued in the year 2010 so far recruitment process is not completed and the said vacancies remain unfilled; it appears atleast from 2011 the petitioners are being engaged continuously through the outsourcing agency and now Attendance Register is maintained.

21.1 In the light of the submissions of both sides that the petitioners are being engaged from 1993-1994, perusal of the voluminous documents filed by the petitioners would also disclose that it is not in dispute atleast that as and when

required, petitioners are being engaged. Some of the certificates filed by the petitioners and the relevant notings by the respondent – Bank Officers would disclose that petitioners were engaged in the absence of a regular employee. However, it is not clear and respondent – Bank has not explained, even though it is a specific assertion of the petitioners from the beginning, that petitioners are also paid bonus. If what is contended by the respondent - Bank is correct i.e., petitioners are engaged on a particular day if the regular employee is absent or on leave by local sourcing of such persons to undertake menial job and they are paid wages of that day, the question of payment of bonus would not arise. Similarly, reflecting their names in the relevant records also would not arise. In other words, what emerges from scanning through the several documents filed by the petitioners along with the rejoinder in W.V.M.P.No.254 of 2011 is, though petitioners are engaged as and when regular employee was on leave, their names are maintained in the musters of respondent – Bank, though not in writing or with the understanding by the local Manager and as and when they are required, they are engaged.

21.2 Thus, even though there is no regular assignment or continuous work, the person is expected to be available to work as and when called and in that sense he cannot undertake any other job. Undertaking any other job may result in losing the opportunity, even though it may be intermitantly given when a regular employee goes on leave. Thus, assuming what is

contended by the respondent – Bank may be true that the engagement of the petitioners was only when regular employee goes on leave, their availability has to be continuous and therefore they cannot take up any other assignment. As noted above, it would clearly amount to exploitation of labour and adopting the principle of ‘hire and fire’ which was long ago given up when India became independent and is a democratic country governed by rule of law. It also amounts to misusing power to give false hope to the people coming from lower strata of society and utilising them whenever and wherever required at their whims and fancies. Based on these facts, the issue as addressed extensively by the respective counsels needs consideration.

22. In terms of the earlier orders of this Court, undertaking given by the respondent – Bank in W.P.No.14457 of 2010 as well as in C.C.No.821 of 2011, the candidates applied directly in accordance with the interim orders in individual cases and the claims of the petitioners in all other Writ Petitions should be considered against existing vacancies without insisting that their names should be sponsored from Employment Exchange and any other agency.

23. Question for consideration in the facts of W.P.No.14457 of 2010 as noted above is whether petitioners can seek regularisation of their services without subjecting them to any selection process.

24.1 In **Umadevi (3)**, Supreme Court while deprecating the practice of back-door appointments, appointments on daily wage basis and subsequent regularization, directed formulation of scheme for regularization, if services of persons are utilized uninterruptedly for more than 10 years. Supreme Court held:

“53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V. Narayanappa* [(1967) 1 SCR 128 : AIR 1967 SC 1071] , *R.N. Nanjundappa* [(1972) 1 SCC 409 : (1972) 2 SCR 799] and *B.N. Nagarajan* [(1979) 4 SCC 507 : 1980 SCC (L&S) 4 : (1979) 3 SCR 937] and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases aboveresferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such *irregularly* appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.”

24.2 Considering the scope of decision in **Umadevi**, in **State of Karnataka and others Vs. M.L. Kesari and others**⁸ Supreme Court held:

“11. The object behind the said direction in para 53 of *Umadevi (3)* [(2006) 4 SCC 1] is twofold. First is to ensure that those who have put in more than ten years of continuous service without the protection of any interim orders of courts or tribunals, before the date of decision in *Umadevi (3)* [(2006) 4 SCC 1] was rendered, are considered for regularisation in view of their long service. Second is to

⁸ (2010) 9 SCC 247

ensure that the departments/instrumentalities do not perpetuate the practice of employing persons on daily-wage/ad hoc/casual basis for long periods and then periodically regularise them on the ground that they have served for more than ten years, thereby defeating the constitutional or statutory provisions relating to recruitment and appointment. The true effect of the direction is that all persons who have worked for more than ten years as on 10-4-2006 [the date of decision in *Umadevi (3)* [(2006) 4 SCC 1]] without the protection of any interim order of any court or tribunal, in vacant posts, possessing the requisite qualification, are entitled to be considered for regularisation. The fact that the employer has not undertaken such exercise of regularisation within six months of the decision in *Umadevi (3)* [(2006) 4 SCC 1] or that such exercise was undertaken only in regard to a limited few, will not disentitle such employees, the right to be considered for regularisation in terms of the above directions in *Umadevi (3)* [(2006) 4 SCC 1] as a one-time measure.”

24.3. In ***Amarkant Rai v. State of Bihar***⁹, Supreme Court held that “The objective behind the exception carved out in this case was to permit regularisation of such appointments, which are irregular but not illegal, and to ensure security of employment of those persons who had served the State Government and their instrumentalities for more than ten years”. In that case, employee was working for 29 years. This decision approves earlier view expressed in ***M.L.Kesari*** (supra) extracted above.

24.4. In ***State of Jharkhand v. Kamal Prasad***¹⁰, similar view was taken. Supreme Court held:

“41.In view of the categorical finding of fact on the relevant contentious issue that the respondent employees have continued in their service for more than 10 years continuously therefore, the legal principle laid down by this Court in *Umadevi (3)* case [*State of Karnataka v. Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753] at para 53 squarely applies to the present cases. The Division Bench of the High Court has rightly held that the respondent employees are entitled for the relief, the same cannot be interfered with by this Court.”

⁹ (2015) 8 SCC 265

¹⁰ (2014) 7 SCC 223

25.1. Services of petitioners in W.P.No.14457 of 2010 have been utilised for a long time i.e., from 1993-1994, though not regularly/ continuing every day in a month and was not paid wages on monthly basis. Some of them have proof of their work and others do not have. However, they are required to be on rolls, be alert and at the beck and call of the officials of the bank to work whenever called and to do whatever task is entrusted to them, such as to sweep, to clean the floors to clean the toilets to act as messengers/curriers etc. They appear to have rendered satisfactory service, earning bonus also, and at any rate no adverse action was taken against them.

25.2. Having regard to the peculiar facts and circumstances of the case, justice and equity requires that the respondent Bank should evolve some scheme to assign priority in the selection process while conducting selections to fill existing vacancies of Office Attendants (Multipurpose); duly taking note of long service rendered by them; grant relaxation of age if they are found to be over aged by 2010 and if they were within the age when initially engaged.

26. In W.P.Nos.37521, 38457 and 37522 of 2012, petitioners also claimed to have worked with the respondent - Bank. The respondent - Bank is required to verify whether petitioners in these writ petitions have worked and if so they may be extended same benefit as extended to petitioners in W.P.No.14457 of 2010.

27. Accordingly, the Writ Petitions are disposed of as under:

- (a) Petitioners in all the writ petitions be subjected to selection process in pursuant to the recruitment exercise taken up in the year 2010 to fill vacancies in the post of Office Attendants (Multipurpose) without insisting that their names should be sponsored by Employment Exchange /or any other agency.
- (b) While considering for such recruitment, the Bank may evolve some procedure/scheme to grant weightage to petitioners in W.P.No.14457 of 2010 having regard to the service rendered by petitioners, subject to such service being satisfactory. They shall also be extended relaxation in age if they were within the age when they were initially engaged.
- (c) If petitioners in W.P.Nos. 37521, 37522 and 38457 of 2012 are also similarly situated to petitioners in W.P.No.14457 of 2010, they may also be extended the same benefits as extended to those petitioners.

No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE: 27-04-2017
KH/TVK

P. NAVEEN RAO, J

HONOURABLE SRI JUSTICE P. NAVEEN RAO



**W.P Nos.14457 of 2010; 34753, 35502, 37432, 37521,
37522, 37976, 38457, 39109 & 39685 of 2012 & 12547 of 2013**

Date: 27.04.2017