

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.22166 OF 2001

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondents in not regularizing the services of the petitioner in the category of Helper as illegal, arbitrary and unconstitutional. A consequential direction is also sought to the respondents to regularize the services of the petitioner.

Heard Sri Ch.Satish Kumar, learned counsel for the petitioner, and Sri J.S. Raju, learned Standing Counsel for the respondents.

It is the case of the petitioner that the petitioner was initially appointed as Helper in the respondent No.2 Organization in 1992 and since then, he has been continuing without any break. Since the petitioner is continuing since long time in the respondent No.2 organization, he is entitled for regularization of his services.

It is submitted by learned counsel for the petitioner that in Writ Petition Nos. 32196 and 32589 of 1997, this Court vide orders dated 17.2.1999, had partly allowed both these writ petitions holding that the petitioners therein, who were also employees of the respondent No.2 Organisation, were entitled for granting of time scales attached to the posts against which they were working, but however, this Court had declined to grant a direction to regularize the services of the petitioners therein. The

respondents therein had preferred a writ appeal against the orders of the learned single Judge in W.A.No.771 of 1999 and the Division Bench of this Court had confirmed the orders of the learned single Judge, dated 17.2.1999. The respondents therein preferred Special Leave Petition No.11705 of 1999 before the Hon'ble Supreme Court and the Hon'ble Supreme Court dismissed the same on 27.8.1999. Since the petitioner herein is also working in the respondent No.2 organization, he is entitled for minimum time scale of pay attached to the post of Helper.

It is further submitted by learned counsel for the petitioner that this Court, while admitting the case, was pleased to grant status quo orders on 02.11.2001. Subsequently, the respondents herein had filed a vacate miscellaneous petition in W.V.MP.No. 874 of 2002 and this Court had modified the original orders of status quo by orders dated 07.06.2002 and observed that the petitioner shall be continued as and when there is work available and whenever petitioner is employed, he shall be entitled to salary on par with the scale of pay attached to the regular post, in such casual employment.

Now, learned counsel for the petitioner submits that the petitioner has been continuing in service even as on today. But the grievance of the petitioner is that the respondents are not extending the minimum time scale of pay attached to the post of Helper against which the petitioner is discharging his duties. Learned counsel for the petitioner pleads to allow the writ petition to the extent of extending the minimum time scale of pay attached to the post of Helper.

Learned counsel for the respondents contended that the relief sought for by the petitioner is for regularization and this Court while allowing W.P.Nos.32196 and 32589 of 1997 on 17.2.1999, had declined to grant regularization of services of petitioners therein and only directed that minimum time scale of pay be extended. In view of the same, since there is no specific relief sought for payment of time scale of pay in this writ petition, the writ petition is liable to be dismissed.

After considering the rival submissions made by the parties, this Court, while modifying the interim orders on 07.06.2002, has categorically held that the petitioner herein is entitled to salary on par with the scales of pay attached to the post and the same should be extended to the petitioner.

In view of the above, if the petitioner is continued as on today, he should be extended the minimum time scale of pay attached to the post in which he is working.

With this observation, the writ petition is disposed of.

Pending miscellaneous petitions if any, shall also stand dismissed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

Date: 18.12.2017
slk