

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 8423 of 2001

ORDER:

This writ petition is filed seeking a direction declaring the action of the Respondents in the matter of implementation of scheme of the Government in G.O.Ms.No.212, Finance & Planning, dated 22.04.1994, as illegal and void; and consequently to direct the respondents to consider the case of the Petitioner in the existing vacancy within the jurisdiction of the Respondents in the 1st Respondent Corporation, or in the vacancy that might arise in future and to continue the Petitioner in service.

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

3. It is the case of the petitioner that he was initially appointed as 'Night Watchman' in the 2nd Respondent Corporation in 1989 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.

4. It is submitted by the learned counsel for the petitioner that in Writ Petition Nos. 32196 & 32589 of 1997, this Court vide Orders dated 17.02.1999, had partly allowed both these writ petitions, holding that the petitioners therein, who were also employees of the 2nd respondent Corporation, 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. Aggrieved by the same, the respondents therein had preferred an appeal in W.A.No.771 of 1999 and the Division Bench of this Court had confirmed the Orders of the learned single Judge, dated 17.02.1999. Thereafter, 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 27.08.1999. Since the petitioner herein is also working in the 2nd respondent organization, he is entitled for minimum time scale of pay attached to the post in which he is working.

5. It is further submitted by learned counsel for the petitioner that on 26.04.2001, this Court, while admitting the case, granted an interim direction to continue the Petitioner in service, if he is already in service. Subsequently, the respondents herein had filed a vacate petition in W.V.MP.No. 1650 of 2001 and this Court had modified the original interim direction, by orders dated 19.04.2002, observing that 'if the petitioner is in service as on the date of interim orders of this Court, dated 26.04.2001, he shall be continued, but the period of service rendered by him by virtue of interim order cannot be added for the purpose of regularisation.'

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 the petitioner. Learned counsel for the petitioner seeks to allow the writ petition to the extent of extending the minimum time

scale of pay attached to the post in which the Petitioner is working.

6. Learned counsel for the respondents submits that the relief sought for by the petitioner is for regularization of his service, and this Court while allowing W.P.Nos.32196 & 32589 of 1997 on 17.02.1999, had declined to grant regularization of services of the 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.

7. After considering the rival submissions made by both the parties, this Court, while modifying the interim orders on 19.04.2002, has directed the respondents to continue the petitioner in service. If the petitioner is continued in service as on today, he should be extended the minimum time scale of pay attached to the post in which he is working.

8. With this observation, the writ petition is disposed of. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

December 22, 2017

Kv

Abhinand Kumar Shavili, J

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