

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

WRIT PETITION No.41797 of 2015

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The petitioners are the applicants in O.A.No.3374 of 2012 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad. The said O.A. was allowed in part by the Tribunal *vide* order dated 31.07.2015 directing the Commissioner, Greater Hyderabad Municipal Corporation, to give protection to the pay of the petitioners which they were drawing prior to regularisation of their services. The Tribunal however did not interfere with regard to the date of regularisation of their services.

By way of G.O.Ms.No.533, Municipal Administration and Urban Development (F2) Department, dated 29.11.2011, the Government of Andhra Pradesh, while according sanction to the Greater Hyderabad Municipal Corporation to regularise the services of 306 Non-Muster Roll employees named in the annexure thereto, stated that their regularisation would be from a prospective date, i.e., the date of issuance of orders by the competent appointing authority.

The prayer of the petitioners in the O.A., who were regularized in service pursuant to the above G.O., was with regard to the action of the authorities in not granting them notional seniority w.e.f. 25.11.1993, in terms of G.O.Ms.No.212 dated 22.04.1994, for the services rendered on daily wage basis and also not protecting the pay scales already drawn by them. The Tribunal having found in favour of the petitioners insofar as protection of their pay was concerned, denied them relief insofar as the notional seniority w.e.f. 25.11.1993 was concerned.

Sri P.Raghavender Reddy, learned counsel for the petitioners, 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 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.Singh***².

In the light of this authoritative pronouncement by the Supreme Court, as recently as in August, 2015, on the issue of

¹ Civil Appeal No. 6318 of 2015, dated 17.08.2015

² (2009) 8 SCC 480

regularisation of services under G.O.Ms.No.212 dated 22.04.1994, we have no hesitation in holding that the Tribunal erred in denying relief to the petitioners herein insofar as their claim for regularisation from an anterior date was concerned. They would therefore be entitled to regularisation of their services from the date they completed five years of service but would not be entitled to any monetary benefits in terms of arrears of pay. They would however be eligible for notional fixation of pay and seniority.

The Writ Petition is accordingly allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

N. BALAYOGI, J

Date: 06.03.2017
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