

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT APPEAL No. 1816 OF 2017

JUDGMENT: (*Per VRS,J*)

Aggrieved by an observation made by learned Judge even while granting an interim order in his favour, the petitioner in a writ petition has come up with the above writ appeal.

2. Heard Mr. Pratap Narayan Sanghi, learned counsel for the appellant, the learned Government Pleader for Municipal Administration (Telangana) taking notice for the first respondent and Mr. N.Ashok Kumar, learned counsel taking notice for the second respondent.

3. The appellant was appointed on consolidated pay basis from 04.07.1988 onwards. He is now continued for about 29 years admittedly without any break.

4. His request for regularization on the basis of G.O.Ms.No.212, Finance & Planning (FW.PC.III) Department, dated 22.04.1994, was rejected on the short ground that after 25.11.1993, his services were engaged only through an outsourcing agency and that therefore one of the conditions stipulated in G.O.Ms.No.212 did not stand satisfied.

5. Aggrieved by the said order, the appellant filed the writ petition. While admitting the writ petition, the learned Judge granted

an interim order directing the respondents to continue the services of the appellant in the present capacity, if there is requirement of work.

6. To the extent that there is a direction to continue his services in the present capacity, the appellant cannot be said to be aggrieved. But the rider included by the learned Judge that his continuance will be subject to the condition that there is a requirement of work, is what is now causing hardship to the appellant forcing him to come up with the above appeal.

7. It is seen from the order dated 23.09.2017 passed by the Government and impugned in the writ petition that admittedly the petitioner satisfied the requirement of continuous service for five years as on the cut off date, namely 25.11.1993, stipulated under G.O.Ms.No.212, dated 22.04.1994. According to the respondents, the subsequent continuance was not on consolidated pay or as an NMR or as a daily wage but only outsourcing basis.

8. The fact remains that irrespective of the label given to the employment, the petitioner has continued for 29 years. Therefore, taking advantage of the rider “if there is requirement of work” included in the interim order of the learned Judge, the respondent should not disengage his services.

9. Therefore, the writ appeal is allowed, the impugned order of the learned Judge is modified only to the extent that the rider “if there is requirement of work” will stand removed. No order as to costs.

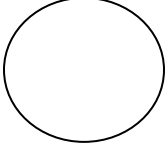
Consequently, miscellaneous petitions if any pending in the writ appeal shall stand closed.

V. RAMASUBRAMANIAN, J

M.GANGA RAO, J

4th December, 2017
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