

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. Nos. 20145 and 21887 of 2003

COMMON ORDER:-

Inasmuch as the issue raised in these two writ petitions is one and the same, these matters are taken up together for disposal by this Common Order.

W.P.No. 20145 of 2003 and W.P.No. 21887 of 2003 are filed against the Common Award dated 07.11.2001 in I.D.No. 206 of 1997 and I.D.No. 210 of 1997 respectively passed by the Industrial Tribunal-cum-Labour Court, Anantapur and quash the same, as being illegal and arbitrary and consequently direct the respondents to consider the cases of the petitioners for regularization with all consequential benefits on par with similarly situated persons by taking into account the orders issued by the Government in G.O.Ms.No. 26, dated 06.02.2001.

Heard Sri J.R.Manohar Rao, learned counsel for the petitioners and the learned Government Pleader for Irrigation and Command Area Development appearing on behalf of the respondents and perused the material placed on record.

The brief facts of the case are that the petitioners were appointed on N.M.R. basis in 1989, and since then, they have been working for Telugu Ganga Project Circle, Nandyal without any break in service, but the respondents have not

considered their cases for regularization. Similarly situated persons filed I.D.Nos.209 and 211 of 1997, and the Labour Court allowed the I.Ds. in favour of some of the workmen directing the respondents to regularize their services, but the respondents, without considering regularization of the petitioners, have mechanically rejected their cases.

When the services of the petitioners herein were not considered for regularization, at the instance of the Superintendent Engineer, the Government has referred the dispute under Section 10(1)(c) of the Industrial Tribunal Act, 1947 to the Labour Court which has passed the impugned Common Award dismissing the I.Ds. referred by the Government without application of mind. Challenging the same, the present writ petitions are filed.

The learned counsel for the petitioners submits that even as on today the petitioners are being continued in service and their cases deserve to be considered for regularization in view of the judgment of the Apex Court in the case of *Secretary, State of Karnataka v. Umadevi*(3)¹ wherein it is held as under:

“One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V.Narayanappa*, *R.N.Nanjundappa* and *B.N.Nagarajan* and referred to in para 15 above, of duly qualified person in duly sanctioned vacant posts might have been made and the

¹ (2006) 4 SCC 1

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 regularization 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 above-referred 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 regularize 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 regularization, 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 regularizing or making permanent, those not duly appointed as per the constitutional scheme.”

Even in the light of the judgment of the Supreme Court and in view of the fact that the petitioners have rendered more than twenty years of service, the case of the petitioners deserve to be considered for regularization.

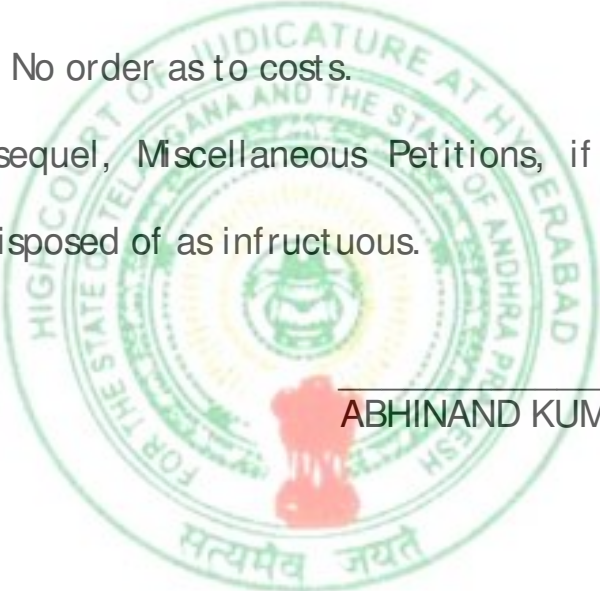
The learned Government Pleader has contended that the petitioners are not eligible for regularization in terms of G.O.Ms.No. 212, dated 22.04.1994 and G.O.Ms.No. 26, dated 06.02.2001, as such, their services have not been regularized and the Labour Court has rightly dismissed the I.Ds.

This Court, having considered the rival contentions of both the parties, is of the opinion that in view of the fact that

the petitioners have been continuing in service from 1989 till date, ends of justice would be met if the respondents are directed to consider the cases of the petitioners for regularization of their services in terms of judgment of the Supreme Court cited supra if the petitioners are otherwise found eligible and qualified, and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, these writ petitions are disposed of. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.



ABHINAND KUMAR SHAVILI, J

27-08-2018

bcj