

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO
WRIT APPEAL NOs.314, 408 and 468 OF 2018**

COMMON JUDGMENT : (Per Hon'ble Sri Justice M.Ganga Rao)

Since the issue raised in all these appeals is common, they are taken up together, heard and being disposed of by this common Judgment.

2. Hereinafter the appellants will be referred as 'Corporation' and the respondents will be referred as 'writ petitioners', for the sake of convenience.

3. The Telangana State Housing Corporation Limited (formerly known as A.P. State Housing Corporation Limited), the instrumentality of the State, filed these writ appeals under clause 15 of the Letters Patent Act, questioning the orders passed by the learned single Judge of this Court directing the Corporation to regularize the services of the writ petitioners from the date of their completing five years of continuous service and on fulfilling all the requirements as per the Government Orders.

4. Facts, in brief, are that the writ petitioners filed W.P.Nos.12700, 13953 and 20473 of 2008 seeking regularization of their services from the date on which they have completed five years of service, in terms of the order issued by the Government in G.O.Ms.No.182, Housing, dated 13.11.1991 read with orders issued by the first appellant in Circular No.1218/A2/1991 dated 01.01.1992 and for all consequential benefits including promotion to the post of Assistant Engineer, stating that they were recruited as Work Inspectors (Technical/Non-Technical) in the Corporation against the clear vacancies on consolidated pay during the year

1989. Their appointment was after due selection by the Selection Committee headed by the District Collector. While working as such, the Government issued G.O.Ms.No.182 directing regularization of services and giving regular scales of pay to the Assistant Engineers, Architectural Draughtsman, Draughtsman (Civil) and Work Inspectors (both technical and non-technical), who have completed five years of service. Pursuant thereto, the first appellant issued Memo No.1218/A2/1991 dated 01.01.1992 directing to furnish the list of Architectural Draughtsman, Draughtsman (Civil) Grade-III and Work Inspectors (Technical and non-technical) who have completed five years of service, by the end of every month to enable the office to issue regularization orders in respect of the employees who have completed five years of service. As such, the services of the writ petitioners ought to have been regularized immediately after completion of five years i.e. from 18.11.1994 in terms of G.O.Ms.No.182 read with Memo dated 01.01.1992 and even as per G.O.Ms.No.33 Housing dated 26.05.1998, the writ petitioners are entitled for regularization of their services. However, the services of the writ petitioners as Work Inspectors were regularized vide proceedings No.A4/5658/2003 dated 09.08.2006 of the first appellant with prospective effect. Hence, the writ petitioners approached this Court aggrieved by the action of the Corporation in not regularizing their services from the date of their completion of five years.

5. The Corporation filed separate counter affidavits in the writ petitions contending that originally the writ petitioners were appointed as Work Inspectors on temporary basis on consolidated pay of Rs.700/- per month during the year 1989 by the then

District Collector/Executive Director of the Corporation. The Government had issued G.O.Ms.No.182 for regularization of services of the Assistant Engineers, Architectural Draughtsmen, Draughtsmen (Civil) and Work Inspectors (Technical & Non-Technical), who have completed a total length of five years of service in the Corporation in terms of G.O.Ms.No.143 Irrigation (Ser-V) Department dated 16.03.1984 giving regular scales of pay. In pursuance to G.O.Ms.No.182, the proposals received from the third respondent for regularization of services of the writ petitioners were duly examined and found that they were not eligible for regularization of their services as per G.O.Ms.No.182 as they did not complete five years of service as on 13.11.1991 as stipulated in the said G.O. Thereafter, the Government issued G.O.Ms.No.138 dated 08.05.2006 (Housing) U & IAY Department, enabling regularization of services of NMR Work Inspectors with prospective effect. Accordingly, the services of the writ petitioners were regularized as Work Inspectors vide proceedings dated 09.08.2006 issued by the first appellant with prospective effect.

6. Based on the above submissions and following the ratio laid down by the Supreme Court in ***District Collector/Chairman and others vs. M.L.Singh and others***¹ wherein it is held that the services of the employee be regularized with effect from the date of their completing five years continuous service, the learned single Judge allowed the writ petitions, against which, the present writ appeals are filed.

7. Sri C.Buchi Reddy, learned Standing counsel for the Corporation, would mainly contend that the claim of the writ

¹ (2009) 8 SCC 480

petitioners is based on G.O.Ms.No.182 read with Circular dated 01.01.1992. The decision of the Supreme Court in ***M.L.Singh case (referred supra)***, which deals with G.O.Ms.No.212 dated 22.04.1994, is not applicable to the case of the writ petitioners. He would also point out that the said judgment was actually rendered in the year 1998 but was reported in the year 2009. However, the said judgment is no longer *ratio decidendi* in view of the law laid down by the Constitution Bench of the Supreme Court in ***Secretary, State of Karnataka vs. Uma Devi***² and ***A.Manjula Bhashini and others vs. The Managing Director, A.P.Women's Cooperative Finance Corporation Ltd. and another***³ wherein it has been held that regularization under G.O. is a one-time measure and not an ongoing process/continuing scheme for regularization of all daily wagers as and when they complete five years as on the cut off date 25.11.1993. He would further contend that after bifurcation of the State of Andhra Pradesh, the Government of Telangana and the Managing Director, Telangana State Housing Corporation Limited, were not impleaded as party respondents in the place of Andhra Pradesh Housing Corporation Limited in the writ petitions and thus the learned single Judge ought to have dismissed the writ petitions for non-joinder of necessary parties. He would further submit that virtually the Corporation was defunct with no new projects and only a skeletal staff and practically with no income. Therefore, there is neither sufficient staff nor financial capacity for regularizing services of the writ petitioners as the existing staff were already redeployed to various other departments.

² (2006) 4 SCC 1

³ (2009) 8 SCC 431

8. Sri A.Tirupathi Goud, learned counsel for the writ petitioners, would contend that the writ petitioners were engaged on consolidated pay during the year 1988-89 by following due selection process conducted by the Selection Committee headed by the District Collector and since then they have been working without any complaints. As per G.O.Ms.No.182 issued for regularization of their services and payment of regular scales of pay to the Assistant Engineers, Architectural Draughtsmen, Draughtsmen (Civil) and Work Inspectors (both Technical & Non-Technical), who have completed five years of service, read with Memo dated 01.01.1982, the writ petitioners are entitled for regularization immediately after completion of five years of service, whereas the services of the writ petitioners were regularized as Work Inspectors, as per G.O.Ms.No.33 Housing dated 26.05.1998, vide proceedings dated 09.08.2006 issued by the first appellant with prospective effect, which is illegal and contrary to the judgment of the Apex Court in **M.L.Singh (1 supra)**. The learned single Judge following the said decision rightly allowed the writ petitions directing the Corporation to regularize the services of the writ petitioners from the date of their completing five years continuous service and fulfilling all the requirements as laid down in the Government Orders. Hence, there is no illegality or irregularity in the order passed by the learned single Judge.

9. In the facts and circumstances of the case and in our considered view, the writ petitioners were appointed as Work Inspectors (Technical and Non-Technical) on consolidated pay during the year 1988 and as per Government Orders in G.O.Ms.No.182 dated 13.11.1991 and Circular Memo

No.1218/A2/1991 dated 01.01.1992 the writ petitioners are entitled for regularization of their services in terms of the service rules issued in G.O.Ms.No.33 dated 26.05.1998 from the date of their completing five years of continuous service, whereas the services of the writ petitioners were regularized vide proceedings No.A4/5658/2003 dated 09.08.2006 with prospective effect, which is illegal and discriminatory as the services of V.N.Samson and P.B.Prabhakar, who were appointed as Work Inspectors in the year 1989, were regularized from the date of completion of five years of continuous services whereas the same benefit was not extended to the writ petitioners, which action of the Corporation is discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India. As regards the contention urged by the learned Standing counsel with regard to non-joinder of necessary parties, in view of Section 104 of the Andhra Pradesh Re-organization Act, 2014, which stipulates that *the State of Andhra Pradesh or the State of Telangana which succeeds to, or acquires a share in, that property or those rights or liabilities by virtue of any provision of the Act shall be deemed to be substituted for the existing State of Andhra Pradesh or added as a party to those proceedings, and the proceedings may continue accordingly*, the said contention is untenable. The Government of Telangana need not be impleaded separately as a party to the legal proceedings much less to this writ petition. Any decision rendered in this writ petition is binding on the successor State i.e. State of Telangana. Hence, we find no error of law and fact in the orders of the learned single Judge, which warrant our interference.

10. Therefore, the Writ Appeals are dismissed.

11. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

M. GANGA RAO, J

27th April, 2018
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