

* IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND

* THE HON'BLE MS. JUSTICE J. UMA DEVI

+ W.P.NO.13017 of 2011

% Date: 02-01-2018

Between:

T. Chandra Mohan, S/o. T. Narasaiah,
R/o. 8-16-78, Sri Krishna Nagar Colony,
Chintalakunta, L.B. Nagar,
Hyderabad -74.

.... Petitioner

And

1. The Regional Passport Officer, the Regional Passport Officer, 8-115 to 219, New Clock Tower, Secunderabad.
2. The Chief Passport Officer & Joint secretary, Ministry of External Affairs, Govt. of India, New Delhi.
3. The Central Administrative Tribunal, rep. by its Registrar, HACA Bhavan, Hyderabad.

... Respondents

! Counsel for the Petitioner : Mr.Dr. P. B. Vijaya Kumar

^ Counsel for Respondents : Mr. K. Lakshman, ASG

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? Cases referred

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.13017 of 2011

ORDER: (Per VRS,J.)

Aggrieved by the order of the Central Administrative Tribunal in refusing to grant the larger relief of absorption, but in granting the smaller relief of a direction to re-engage his services as casual labour, the petitioner has come up with the above writ petition.

2. Heard Dr. P.B. Vijaya Kumar, learned counsel for the petitioner and Mr. K. Lakshman, learned Assistant Solicitor General for respondents.

3. The petitioner was appointed as a casual labour in the Regional Passport Office, Hyderabad on 24.02.1992. Pursuant to the proceedings dated 04.05.1994, the petitioner was granted temporary status along with other casual employees. However, the temporary status granted to all casual employees including the petitioner was cancelled in the month of June, 1994, on the short ground that all of them were not engaged through employment exchange.

4. The casual employees, whose temporary status was so cancelled, filed Original Applications in O.A.No.4 & 5 of 1995. The petitioner did not join the group of persons, who filed Original Applications, in view of the fact that during this period he came to be implicated in a criminal case for the alleged offences under Sections 120-B, 420, 468 and 471 I.P.C., as accused No.3.

5. The applications filed by the petitioner's colleagues in O.A.Nos.4 & 5 of 1995 were allowed by the Tribunal in August 1997, directing the department to continue them as casual employees and also to consider their cases for regularization. The said order of the Tribunal was

confirmed by a Division Bench of this Court by order dated 01.04.1999 in W.P.No.1079 of 1998. The Special Leave Petitions filed by the Department in S.L.P.(Civil).Nos.4238 & 4239 of 2001 were dismissed by the Supreme Court on 13.07.2001. Therefore, all others, who were engaged as casual labours and who were granted temporary status along with the petitioner, were reinstated into service and also regularized.

6. In the meantime, the criminal complaint lodged against the petitioner and others, in the year 1995, led to the filing of a charge sheet in C.C.No.143 of 1999 on the file of the XIV Additional Chief Judge-cum-Metropolitan Magistrate, Hyderabad. After seven years, the Additional Chief Judge-cum-Metropolitan Magistrate rendered a verdict on 19.05.2006, convicting accused Nos.1, 2 and 4, and acquitting Accused Nos.3 & 5. Thus the petitioner, who was Accused No.3, came to be acquitted in the criminal trial and it is not known whether there was any appeal against the acquittal.

7. After the acquittal, the petitioner made a representation for reinstatement and for granting similar benefits as granted to his colleagues. The same was rejected forcing the petitioner to file O.A.No.344 of 2007 on the file of the Central Administrative Tribunal. Though the Tribunal agreed that the persons, who were similarly placed like the petitioner had earlier been granted the benefits, the Tribunal felt constrained due to the development of law, through the judgment of the Constitution Bench in State of Karnataka v. Umadevi¹. Therefore, instead of granting the same benefits as granted to the other casual labours with temporary status, the Tribunal merely directed the Government to consider re-engagement of the petitioner as casual labour,

¹ (2006) 4 SCC 1

if nobody was employed subsequent to 19.05.2006 as casual labour. Not satisfied with the limited relief so granted, the petitioner has come up with the above writ petition.

8. The contentions of Dr. P.B. Vijaya Kumar, learned counsel for the petitioner are two fold, viz., (a) that once it is found that all persons, who were engaged along with him in the year 1992 and who were conferred with permanent status in 1994, were granted certain benefits, the petitioner cannot be deprived of the same benefits especially after his acquittal; and (b) that in *Nar Singh Pal v. Union of India*², the Supreme Court had an occasion to consider the case of a casual labour with temporary status, whose services were terminated on account of a criminal case but who got reinstated through the judgment of the Supreme Court.

9. We have carefully considered the above submissions.

10. It is true that the petitioner got appointed as a casual labour in the year 1992 and that he was granted temporary status in 1994. It is also true that the temporary status was cancelled in June, 1994 and that all his colleagues filed O.A.Nos.4 & 5 of 1995 and succeeded before the Tribunal, by an order dated 22.08.1997. These orders were confirmed by the Supreme Court and his colleagues got reinstatement with the benefit of regularization.

11. It is not known whether on the date on which the petitioner's colleagues filed Original Applications, the F.I.R had already come to be lodged against the petitioner herein. In any case, the petitioner could have taken chance, by joining the band of his colleagues, who went before the Tribunal. But he did not choose to do so.

² (2000) 3 SCC 588

12. The result was that the decision rendered by the Tribunal in the year 1997, which was confirmed by this Court in the year 1999 and by the Supreme Court in the year 2001, could not be applied to the petitioner in view of the development of law that took place after *Umadevi*. In *Umadevi* the Supreme Court made it clear that no Court can direct the grant of regularization. Therefore, the Tribunal could not have overlooked the law laid down in *Umadevi* and issued a direction merely because the petitioner was similarly placed.

13. Insofar as the position in *Nar Singh Pal* is concerned, the same related to the termination of service of a person with temporary status due to his implication in a criminal case. Therefore, the same stands on a different footing, since the termination was actually stigmatic in nature. But in this Case, the cancellation of temporary status was much before the lodging of criminal application. Therefore, the termination was not stigmatic in nature so as to invoke the decision of the Supreme Court in *Nar Singh Pal*.

14. Fortunately for the petitioner, the Union of India has not come up with a writ petition. Therefore, he should be satisfied with the relief granted by the Tribunal and he cannot seek anything more. Hence the writ petition is dismissed.

15. As a sequel, pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

JUSTICE V. RAMASUBRAMANIAN

JUSTICE J. UMA DEVI

2nd January, 2018
Js.

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No.13017 of 2011



Date: 02-01-2018

Js.