

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.16233 OF 2002

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the respondents in not regularizing the services of the petitioners and in orally instructing the petitioners not to report duty from 30.8.2002 as illegal and arbitrary, and consequently, to direct respondents Nos.1 to 3 to regularize the services of the petitioners in terms of G.O.Ms.No.212, dated 22.4.1994 from the date of their initial appointment.

2. Heard Sri Rayaprolu Srikanth, learned Counsel for the petitioners and Sri P. Durga Prasad, learned Standing Counsel for the respondents.

3. It has been contended by the petitioners that they have been working as non-technical Maistries in the Civil Engineering Department for the last 20 years, but the respondents are not considering their case for regularization and in those circumstances, the present writ petition is filed.

4. The principal grievance of the petitioners is that even though they have been working for the last 20 years as non-technical maistries in the Civil Engineering Department, the respondents are not regularizing their services.

5. The learned Standing Counsel for the respondents contended that the petitioners are working on daily wage basis and they are not entitled for regularization.

6. This Court has considered the submissions made by the parties and the material available on record. The Hon'ble Supreme Court in a judgment rendered in ***Secretary, State of Karnataka and others Vs. Umadevi and others***¹ 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 (AIR 1967 SC 1071), R.N. NANJUNDAPPA ((1972) 1 SCC 409), and B.N. NAGARAJAN ((1979) 4 SCC 507), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of 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 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 by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

In the light of the above judgment of the Hon'ble Supreme Court and considering the length of service rendered by the

¹ (2006) 4 SCC 1

petitioners, this Court is of the view that the respondents can be directed to consider the case of the petitioners for regularization.

7. Accordingly, the Writ Petition is disposed of directing the respondents to consider the case of the petitioners for regularization of their services in terms of the judgment of the Hon'ble Supreme Court (cited supra), and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 12th October, 2018.
Nn.



HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

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12/10/2018

Nn.