

HON'BLE SRI JUSTICE M.GANGA RAO

W.P.No.20507 of 2001

ORDER

The petitioner, who is working as Typist in the respondent-organization, filed this Writ Petition seeking to issue a Writ of Mandamus declaring the action of the respondents in not absorbing the petitioner in the post of Typist in the respondent-Corporation as arbitrary and illegal and consequently to direct the respondents to absorb the petitioner in any suitable post with all consequential benefits.

It is the case of the petitioner that he passed B.A., in the year 1990, and also passed Type Writing Higher Grade in English and Telugu. Due to shortage of Typists, the Divisional Engineer, Electrical Operations, Wanaparthi, has engaged the petitioner as contract labour through Sri Venkateswara Typing & Shorthand Institute, Wanaparthi. From 1st July, 1995, the petitioner has been working as contract labour in the post of Typist and discharging his duties as such without any remarks. While so, the then A.P.S.E.Board has issued B.P. (P&G Per) Ms.No.36, dated 10.5.1997 for filling up of 50% existing vacancies in initial recruitment cadre by existing casual labour, contract labour and village electricity workers. Since the petitioner has been

working from 1995, he made a representation to consider his candidature for absorption in the post of Typist or any other suitable post. The Divisional Manager addressed a letter dated 18.07.2000 to the 3rd respondent stating that due to non-availability of staff, M.A.Farooq (Typist), Pandu (Driver), Ramulu (Watchman), D.Ranganna (Watchman) were engaged to coup up departmental work, and payment was made through chit agreement. Pursuant to the representation of the petitioner, the Divisional Engineer (Operations) sent proposals to the Superintending Engineer *vide* proceedings dated 11.05.2000 for engagement of private persons for entrusting of work as Typist and requesting sanction as early as possible. Thereafter, *vide* proceedings dated 10.07.2000, the G.M (IR) A.P. Transco addressed to all Chief Engineers and Superintending Engineers requesting to furnish the particulars of job typist working on contract basis, under their control in the prescribed proforma. Accordingly, the Divisional Engineer *vide* proceedings dated 7.11.2000 sent particulars to the Superintending Engineer stating that the petitioner is working as Typist for the period from 7/95 to 6/97 and 4/99 to till date i.e., 7.11.2000, in the sanctioned post, and permission was accorded by A.P. Transco with sanctioned number. The Additional Secretary *vide*

proceedings dated 03.12.1999 has given clarification to the effect that the driver engaged under respondent No.2 agreement can be considered against the post mentioned in B.P.Ms.No.36, dated 18.05.1997 subject to their possessing qualifications. Since the petitioner is working from 1995 and possessing requisite qualification as required for the post of Typist, he is entitled for absorption as per B.P.Ms.No.36, dated 18.05.1997 in the post of Typist. Similarly situated persons had approached this Court by filing W.P.No.3577 of 1993 for regularization/absorption in the post of Typist and this Court allowed the same on 19.11.1997 directing the respondents to regularize the services of the petitioner as Typist. When his case was not considered for absorption, as was done in the cases of similarly situated persons, he filed the present writ petition.

While issuing notice before admission on 03.10.2001, this Court directed the respondents to continue the petitioner in service, as he is already in service. In pursuance of the said direction, the petitioner continued in service.

Learned counsel appearing for the petitioner submits that since the petitioner is working as Typist on contract basis from 1995, he is entitled for absorption as per B.P.Ms.No.36, dated 18.05.1997. Even though the respondents have

considered the cases of several similarly situated persons to that of the petitioner, his case was not considered for absorption for the reasons best known to them and thereby, the petitioner is discriminated, which is in violation of Articles 14 and 16 of the Constitution of India. Learned counsel further submits that this Court while allowing W.P.No.3577 of 1993 directed the respondents to regularize the services of the petitioner therein, and the petitioner is a similarly situated person, he is entitled for absorption as per B.P.Ms.No.36, dated 18.5.1997.

Per contra, Sri R.Vinod Reddy, learned Standing Counsel appearing for the respondent Corporation contends that the petitioner was engaged through Sri Venkateswara Typing & Shorthand Institute, and is working on contract basis from 1995. The respondent-Corporation had issued B.P.Ms.No.36, dated 18.5.1997, by which time, there were no sanctioned posts. However, this Court in PIL No.149 of 2017 directed the respondents not to regularize the services of the contract labour until further orders. The contract labour are continued on payment of consolidated salaries equivalent to pay of the regular employees.

It appears the petitioner is working on contract basis in the respondent-organization since 1995 and is being

continued till date and is working against the sanctioned vacancy and that he is entitled for absorption as per B.P.Ms.No.36, dated 18.5.1997. The petitioner is continued as per the interim direction granted by this Court on 3.10.2001. Hence, in the interest of justice, this Court deems it appropriate to direct the respondents to consider the case of the petitioner for absorption/regularization.

Accordingly, the Writ Petition is allowed and the respondents are directed to consider the case of the petitioner for absorption/regularization as per B.P.Ms.No.36, dated 18.5.1997, subject to result of PIL No.149 of 2017, pending before this Court. Since the petitioner is continuing as per the interim direction granted by this Court, the respondents are directed to pay salary to the petitioner to that of the similarly situated persons, by continuing him pending absorption as directed above. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.GANGA RAO

2nd August, 2018
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