

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 2425 of 2004

ORDER:

This writ petition is filed seeking to issue a writ of certiorari calling for the records relating to and connected with I.D.No.210 of 1997 on the file of the 1st respondent-Labour Court and quash the order dated 07.11.2001 passed therein holding it as illegal and arbitrary. A consequential direction is also sought to consider the case of the petitioners for regularization on par with similarly situated persons by taking into account G.O.Ms.No.26 dated 06.02.2001 with all consequential benefits.

Heard learned counsel for the petitioners, and learned Government Pleader for Irrigation appearing on behalf of the official respondents and perused the material placed on record.

Briefly, the case of the petitioners is that they were appointed as Non-Technical Assistant and Watch Ward on hand receipt basis on 01.10.1989 and 01.04.1989 respectively and they are working in Velugodu Division-I, 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 respondents, the Government has referred the dispute under Section 10(1)(c) of the Industrial Disputes Act, 1947 to the Labour Court which has passed the impugned order dismissing the I.D. preferred by the Government without application of mind. Challenging the same, the present writ petition is 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 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

¹ (2006) 4 SCC 1

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.”

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.

Learned standing counsel for the respondents 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.

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 case 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, the writ petition is disposed of. No order as to costs. As a sequel, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

23rd November, 2018
cbs

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(disposed of)

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