

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.10725 of 2001

ORDER:

The petitioners are working as Work Inspectors from 1999 onwards against the sanctioned posts of Work Inspectors in the Engineering Department of the 1st respondent-Sri Venkateswara University. They filed this writ petition seeking a writ of mandamus, directing the respondents to regularize their services as Work Inspectors in the existing posts of Work Inspectors, available in Engineering Department of the 1st respondent University.

Brief facts of the case are that the petitioners are qualified to be appointed as Work Inspectors. They were working as Work Inspectors since 1999 in the Engineering Department of the 1st respondent University. In the year 2008 they were granted time scale of pay and continued as Work Inspectors. In the year 2011 and 2015 revised pay scales were also made applicable and accordingly, they were paid salaries. The petitioners are working against the sanctioned posts of Work Inspectors in the 1st respondent University. There are 17 sanctioned Work Inspectors posts and two work charged work inspectors in the 1st respondent University. The petitioners claim that they are working since 1999 continuously against the sanctioned posts of Work Inspectors and their continuance is without any court orders. The petitioners were granted time scale of pay, vide proceedings No.E.1(5)/TS1&TS2/EW/2008, dated 26.12.2008. They were also given revised pay scales in the year 2010, vide proceedings No.E.1(5)/RPS-2010/2011, dated 25.03.2011. They were also given revised pay scales for the year 2015, vide

proceedings No.E.I(9)/TS/RPS-2015, dated 14.07.2015. The petitioners' salaries are being paid from the 1st respondent University Block Grant, vide proceedings No.E.I(9)/TS-Block Grant/2017, dated 12.12.2017. The petitioners state that their continuance since long time as Work Inspectors in the sanctioned posts without regularization is arbitrary, illegal and contrary to the decisions of the Hon'ble Apex Court and this Court.

Sri J.Ugranarasimha, learned counsel for the petitioners, would contend that the petitioners are working as Work Inspectors since 1999, they are fully qualified and eligible to absorb and regularize their services in the posts of Work Inspectors. The learned counsel placed reliance in *Secretary, State of Karnataka v. Umadevi*¹ wherein the Hon'ble Supreme Court laid down certain guidelines for regularizing the employment of the employees working against the sanctioned posts. The learned counsel further would contend that as the petitioners have completed 10 years continuous service without any court orders and they are continuing as such, they are entitled for regularization of their services in the posts of Work Inspectors, and accordingly, he prays this court to direct the respondents to regularize the services of the petitioners in the posts of Work Inspectors.

Smt.V.Himabindu, learned counsel, appearing for the respondent University, would contend that the services of the petitioners were engaged on daily wage basis through the Contractor, there is no relationship of employer and employee between the petitioners and the respondents. She submits that the nature of the work of the petitioners and the regular employees of the 1st respondent University are not similar, and the 1st respondent University has separate Engineering Department,

¹ (2006) 4 SCC 1

which is permanent in nature, to look after the works of civil, electrical, water, gardening, transport etc. She further would contend that there are 17 budgeted posts of Work Inspectors in the 1st respondent University, against which, 7 regular work inspectors are working, only 10 posts of work inspectors are vacant and two backlog vacancies are advertised and the total vacancies are only 8, against which 14 work inspectors are working on contract basis. She further would contend that this court granted *status quo* orders in WPMP No.11698/1999 in W.P.No.9469/1999 and accordingly, the petitioners are being continued, and as such, the 1st respondent University cannot regularize the services of the petitioners without sanctioning of additional grants and additional posts etc.

Per contra, the learned counsel for the petitioners would contend that W.P.No.9469 of 1999 is disposed of on 07.03.2008, permitting the petitioners therein to make a representation to the 1st respondent University within a period of 4 weeks and the 1st respondent is directed to consider the representation of the petitioners, as per law and pass appropriate orders thereon, within a period of two weeks thereafter. The learned counsel further would contend that the petitioners are not parties to the said writ petition. He submits that the petitioners filed the present writ petition for regularizing their services as Work Inspectors along with WPMP No.13340/2001 for continuation of their services, but the same is posted along with writ petition. The learned counsel further would contend that the 1st petitioner-K.Chandramouli Reddy inadvertently added as a party in W.P.No.7614/2018, and the same has been withdrawn against the 1st petitioner herein on 09.07.2018. The learned counsel would further submit that the petitioners are working as Work Inspectors

against the sanctioned vacancies since 1999, they were given pay scales and revised pay scales, and hence they are entitled for regularization.

While dealing with the similar issue, the Hon'ble Supreme Court in *Secretary, State of Karnataka v. Umadevi* (1 supra), held as under:

“53.....There may be case where irregular appointments (not illegal appointments) 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 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 Government 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 case 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 bypassing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.”

It is found that the petitioners are working as Work Inspectors since 1999 and continued as such in the 1st respondent University. They are eligible and qualified to be appointed as Work Inspectors on regular basis as they are working against the sanctioned vacancies without any court or tribunal orders. As per the guidelines issued in *Secretary, State of Karnataka v. Umadevi* (1 supra), the petitioners are entitled to be regularized in the posts of Work Inspectors.

In view of the facts and circumstances of the case, the writ petition is disposed of, directing the respondents to consider the cases of the petitioners for regularization of their services as Work Inspectors in the Civil Engineering Department of the 1st respondent University in the light of the *Umadevi's* case. The said exercise shall be completed within a period of 2 (two) months from the date of receipt of a copy of this order. In the meanwhile, the petitioners should be continued as Work Inspectors in the 1st respondent University. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

Date: 10.07.2018
Dsr



M.GANGA RAO,J