

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 14986 of 2002

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.333 of 1997 on the file of the 2nd respondent-Labour Court and quash the order dated 26.11.2001 passed therein holding it as illegal and arbitrary. A consequential direction is also sought to the respondents to regularize the services of the petitioners in any suitable post from the date of completion of five years of service.

Heard Sri P. Raghavender Reddy, learned counsel for the petitioner and the learned Government Pleader for Irrigation and Command Area Development appearing on behalf of the 1st respondent and perused the material placed on record.

The brief facts of the case are that the petitioner was appointed as Watchman on 01.07.1990 under the 1st respondent on daily wage basis and on completion of five years of service, he requested the 1st respondent to regularize his services by virtue of the orders issued by the Government in G.O.Ms.No. 212, dated 22.04.1994, but the 1st respondent has not regularized his services. Questioning the same, he raised a dispute before the Conciliation Officer. On failure of conciliation before the Conciliation Officer, the Government referred the dispute to the 2nd respondent-Labour Court under Section 10 (1) (c) of the Industrial Disputes Act, 1947 for settlement which was

numbered as I.D.No.333 of 1997. The Labour Court adjudicated the dispute and dismissed the I.D. vide order 26.11.2001. Challenging the same, the present writ petition is filed.

The learned counsel for the petitioner has contended that this Court, by order dated 16.08.2002, while admitting the writ petition, directed the 1st respondent to continue the petitioner and the said interim order was made absolute vide order dated 24.07.2003 in WVMP No.1689 of 2003. By virtue of the interim order, the petitioner has been continuing in service. The only issue remains in this writ petition is that whether the workman is entitled for consideration of his case for regularization. It is further contended that even as on today the workman is being continued in service and his case deserves to be considered for regularization in view of the judgment of the Apex Court in the case of **Secretary, State of Karnataka v. Umadevi**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

¹ (2006) 4 SCC 1

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 bypassing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.”

The learned Government Pleader has not denied the continuation of the service of the workman, however contended that he is not eligible for regularization in terms of G.O.Ms.No. 212, dated 22.04.1994, as such, his services have not been regularized, and the Labour Court has rightly dismissed the I.D.

Even in the light of the judgment of the Supreme Court and in view of the fact that the workman has rendered more than twenty five years of service, his case deserves to be considered for regularization.

This Court, having considered the rival contentions of both the parties, is of the opinion that in view of the fact that the workman has been continuing in service from 1990 till date, ends of justice would be met if the 1st respondent is directed to consider his case for regularization in terms of the judgment of the Supreme Court cited supra duly taking into account that he has put in more than twenty five years of service, if he is 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, shall stand closed.

ABHINAND KUMAR SHAVILI, J

1st October, 2018
cbs



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No. 14986 of 2002
(disposed of)

1st October, 2018

cbs

