

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 16022 of 2011

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the inaction on the part of the respondents in regularizing the services of the petitioners from the date of their initial appointment in the 3rd respondent college, as illegal and arbitrary. A consequential direction is also sought to the respondents to regularize the services of the petitioners from the date of their initial appointment with all consequential and attendant benefits, in terms of G.O.Ms.No.212 dated 22.04.1994, and pay regular scales with arrears by counting the service from the date of their initial appointment and extend the benefit of continuity of service for the purpose of pension and other service benefits.

Heard Sri Mohd. Islamuddin Ansari, learned counsel for the petitioners, and learned Government Pleader for Education appearing on behalf of the respondents.

According to the petitioners, they were all appointed in the 3rd respondent college in the last grade services during 1981 to 1988, and since then, they have been discharging their duties without any complaint. While so, the State Government had issued G.O.Ms.No.212 dated 22.04.1994, permitting regularization of those temporary employees who have put in regular and continuous service of five years as on 25.11.1993. Though all of them were eligible to be

regularized from the date of their initial appointment as per the said G.O., the benefits of the said G.O. were not extended to them. Subsequently, the State Government issued clarification vide U.O.Note No.24714-A/224/A3/PC III/98 dated 21.08.1998, regarding regularization of services of daily wage/NMR/contingent employees working in private aided institutions. Pursuant to which, their services were regularized vide G.O.Rt.No.462 dated 23.05.2006. However, their services were regularized with prospective effect i.e., from the date of issuance of the said G.O. instead of the date of their initial appointment. As a result of which, they lost 18-25 years of service against regular aided posts. Hence, they made a representation to the 1st respondent on 30.05.2008, requesting to regularize their services from the date of their initial appointment in the institution and pay regular scales with all consequential benefits, but the 1st respondent has not responded to their request.

Learned counsel for the petitioners has contended that the petitioners are entitled for regularization on completion of five years of service as on 25.11.1993, in terms of G.O.Ms.No.212 dated 22.04.1994, but the respondents have erroneously regularized the services of the petitioners with prospective effect. He submits that the issue raised in this writ petition is squarely covered by a judgment rendered by the Apex Court in ***B. Srinivasulu Vs. the Nellore Municipal Corporation*** in Civil Appeal No.6318 of 2015 dated 17.08.2005, wherein it is held that the employees, who have

completed five years of service as on 25.11.1993, are entitled for regularization from the date of their initial appointment, and following the said judgment of the Apex Court, a Division Bench of this Court, vide judgment dated 02.05.2018 in Writ petition No.33936 of 2011 and batch of cases, disposed of them holding that the petitioners therein are entitled for regularization of their services with retrospective effect i.e., from the date of completion of five years of service, in terms of G.O.Ms.No.212 dated 22.04.1994.

On the other hand, learned Government Pleader for Education appearing on behalf of the respondents has contended that the 3rd respondent has submitted proposals to the competent authority in the year 2005, basing on which, the competent authority had regularized the services of the petitioners and that the petitioners are not entitled for the regularization of their services on completion of five years of services, in terms of G.O.Ms.No.212 dated 22.04.1994.

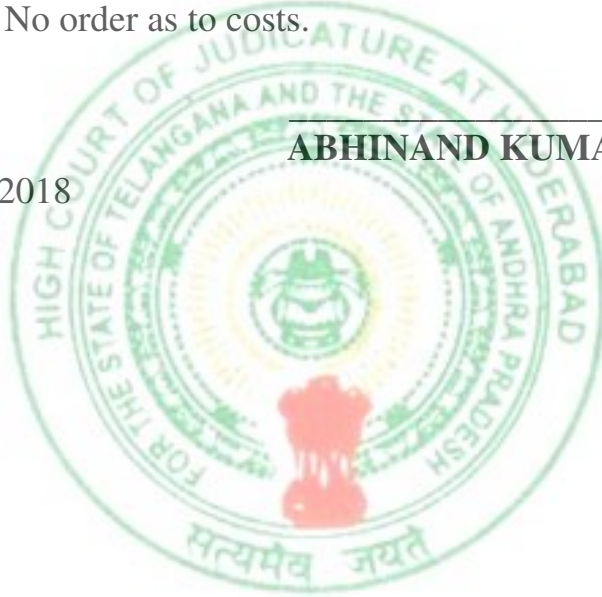
Having considered the submissions made by the learned counsel on either side and perused the material available on record, this Court is of the considered view that the issue raised in this writ petition is squarely covered by the judgment of the Apex Court and also the judgment of this Court referred to supra. In view of the same, the petitioners herein are also entitled for regularization of their services on completion of five years of service, in terms of G.O.Ms.No.212 dated 22.04.1994. Accordingly, the respondents are directed to consider the case of the petitioners for regularization of

their services on completion of five years of service and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order. However, it is made clear that the petitioners are entitled for retrospective regularization only for the purpose of pension and pensionary benefits, but they are not entitled for any monetary benefits.

The writ petition is, accordingly, disposed of. Consequently, miscellaneous applications, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

10th October, 2018
cbs



HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition No. 16022 of 2011
(disposed of)

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