

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.4285 of 2008

ORDER:

This Writ Petition is filed seeking writ of *mandamus* directing the respondents to appoint the petitioner as Lower Division Clerk in view of Regulation No.22-A of the A.P. State Electricity Board Service Regulations Part-II pursuant to B.P.Ms.No.36, dated 18.05.1997.

2. Heard Sri S.Ravindranath, learned counsel for the petitioner and Sri N.Siva Reddy, learned Standing Counsel for the respondents.

3. It has been contended by the petitioner that she is fully eligible and qualified to be regularly appointed as Lower Division Clerk; that she was appointed on contract basis on 01.04.1997 and even today, she is being continued on contract basis. The grievance of the petitioner is that though she is working on contract basis for more than two decades, her case is not being considered for regularization and similarly situated persons have been regularized as Lower Division Clerks.

4. Learned Standing Counsel appearing for the respondents had contended that the case of the petitioner was already considered and rejected on 18.04.2001; and that the petitioner has no legal right to be considered for regular appointment and the writ petition is liable to be dismissed.

5. Learned counsel for the petitioner contended that the Hon'ble Supreme Court in **Secretary, State of Karnataka and**

others v. Umadevi and others¹ held that the persons, who were recruited as per regulations and who are being continued for long length of service, their cases had to be considered for regularization as one time measure and at para 53 of the said judgment it was held thus:

“One aspect needs to be clarified. There may be cases where irregular appoints (not illegal appointments), as explained in *S.V.Narayanappa* [(1967) 1 SCR 128], *R.N.Nanjundappa* [(1972) 2 SCR 799] and *B.N.Nagarajan* [(1979) 3 SCR 937] and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten orders 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 aboveresferred 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 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.”

6. This Court, having considered the rival submissions of the parties, is of the view that in view of expression of the Apex Court

¹ (2006) 4 Supreme Court Cases 1

stated supra, the case of the petitioner deserves to be considered for absorption.

7. Accordingly, the Writ Petition is disposed of directing the respondents to consider the case of the petitioner for absorption in terms of the judgment of the Apex Court referred supra, and pass appropriate orders within a period of four (4) weeks from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

SEPTEMBER 14, 2018
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ABHINAND KUMAR SHAVILI, J



THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



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Date:14.09.2018

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