

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITIONS Nos.16180 & 16181 OF 2002

COMMOM ORDER

1. Since the issue involved in both the writ petitions is one and the same, they are heard together and are being disposed of by this common order.

2. Heard Sri K. Murali Krishna, learned Counsel for the petitioners and the learned Standing Counsel for the respondents.

3. Both the writ petitions are filed seeking to issue a writ of Mandamus declaring the action of the respondents in not regularizing the services of the petitioners in the post of sweeper with effect from the date of their appointment in such category, and in not paying regular pay scale attached to the said post with all consequential benefits, as illegal and arbitrary, and consequently, to direct the respondents to regularize the services of the petitioners as sweepers duly absorbing them in the permanent vacancy and pay the scales attached to the posts with all arrears and financial benefits with effect from the date of their appointment on temporary basis.

4. It has been contended by the petitioners that they were sponsored by the employment exchange during October, 1985 and after undergoing regular selection process, they were

appointed as sweepers in the year 1985 and since then, they have been working as sweepers. The grievance of the petitioners is that their services are not being regularized even though they fulfilled all the conditions as stipulated under G.O.Ms.No.212, dated 22.4.1994, and while the respondents were trying to disengage them they filed the above writ petitions, and this Court vide order dated 28.8.2002 was pleased to issue interim direction to the respondents to continue the petitioners in service, and by virtue of the interlocutory orders, the petitioners are being continued in service.

5. The learned Standing Counsel for the respondents contended that there are no vacancies and therefore, the case of the petitioners cannot be considered for regularization.

6. This Court has considered the submissions made by the parties and the material available on record. It is pertinent to note that recently the Hon'ble Supreme Court in ***B. Srinivasulu Vs. The Nellore Municipal Corporation rep., by its Commissioner, Nellore District, A.P. and others (Civil Appeal No.6318 of 2015 (arising out of SLP(C) No.12432/2014)*** was pleased to pass the following order:

“In the circumstances, refusing the benefit of the above mentioned G.O. (G.O.No.212) dated 22.4.1994, on the ground that the appellants approached the Tribunal belatedly, in our opinion, is not justified. In the circumstances, the appeal is

allowed modifying the order under appeal by directing that the appellants' services be regularized with effect from the date of their completing their five years continuous service as was laid down by this Court in **District Collector/Chairperson and others Vs. M.L. Singh & Others (2009(8) SCC 480.**

Following the above judgment, the Hon'ble Division Bench of this Court also disposed of batch of writ petitions viz., W.P.Nos.33936 of 2011 and batch, vide common order dated 2.5.2018 directing the authorities concerned to extend the benefit of the judgment of Hon'ble Supreme Court in **B.SRINIVASULU (in Civil Appeal No.6318 of 2015)** to the employees.

7. In view of the above said decisions of the Hon'ble Supreme Court and the Hon'ble Division Bench of this Court, both the Writ Petitions are disposed of directing the respondents to consider the case of the petitioners for regularization in terms of G.O.Ms.No.212, dated 22.4.1994 and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

12th October, 2018
Nn.

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12.10.2018

Nn.