

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos.5505, 5624 and 6973 of 2002

COMMON ORDER:

All these three writ petitions are disposed of by way of common order, as the issue raised in these writ petitions is one and the same.

Learned counsel for petitioners contends that the petitioners have completed 240 days of service with the respondents and they are entitled for regularisation. Challenging the inaction of respondents in regularizing their services, the petitioners filed the instant writ petitions.

It is further contended that the Hon'ble Supreme Court in **DIVISIONAL MANAGER, A.P.S.R.T.C Vs. P.LAKSHMOJI RAO AND OTHERS¹**, held as follows :-

“In view of this peculiar situation and in order to avoid the anomalies that might otherwise ensue, while we hold that the respondent employees have failed to establish their legal right to get the status of regular employees right from the date of their initial appointment on daily-wage basis and the respective dates of regularized assigned to the respondents cannot be legally faulted, we are inclined to mould the relief in modification of the directions given in the judgments under appeal and direct as follows :

If any of the conductors, junior to the respondents in the relevant seniority list of the concerned Division/Region, have got the benefit of seniority and regularization OR are entitled to get the same by virtue of the judgments that have become final, then the respondents who are seniors to them, shall be given the same benefit on the same principle.”

Learned counsel for petitioners contended that during pendency of writ petitions, the services of the petitioners were regularized, however, not from the date of immediate completion of 240 days on par with their juniors.

¹ (2004) 2 SCC 433

Whereas, the learned Standing Counsel appearing for the respondents has contended that mere completion of 240 days itself would not make the petitioners eligible for regularisation automatically and their services will be regularized subject to availability of vacancies and the cases of the petitioners would be considered as and when vacancies arise and no illegality has been committed by the respondents in regularizing the services of petitioners subject to availability of vacancies.

The writ petitioners cannot contend that their services should be regularized on completion of 240 days.

This Court, having considered the rival submission, is of the view that the respondents have rightly regularized the services of petitioners subject to availability of vacancies. However, if services of any of the juniors to the petitioners are regularized at an earlier point of time, in those set of circumstances, the petitioners are also entitled for regularization of their services on par with their juniors.

With the above observations, the writ petitions are disposed of. It is made clear that if the petitioners are facing any disciplinary action, their cases can be deferred on par with juniors. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

01-11-2018

Prv