

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.36733 OF 2018

ORDER

With the consent of learned counsel on either side, this writ petition is disposed of at the admission stage.

This writ petition is filed seeking the following relief:

“... to issue an order or direction more particularly one in the nature of Writ of Mandamus to declare the action of the respondents in not considering claim of the petitioners for regularization of their services retrospectively on completion of five years of continuous service in the department by implementing the orders passed by the Hon'ble Tribunal in O.A.No.3130 of 2016 dated 07.09.2016 is illegal arbitrary and unconstitutional apart from violative of Principles of Natural Justice and consequently to direct the respondents to consider the claim of the petitioners for regularization of their services retrospectively on completion of five years of continuous service in the department for the purpose of pension and pensionary benefits by implementing the orders passed by the Honble Tribunal in O.A.No.3130 of 2016, dated 07.09 2016 and following the law laid down by the Honble Apex Court in case of B Srinivasulu VS Nellore Municipal Corporation in Civil Appeal No.6318 of 2015 dated 17.08.2015 and the judgment of this Honble Court in W.P.No.33936 of 2011 and batch dated 02.05.2018 with all consequential benefits and pass such other order or orders as this Hon'ble Court may deemt fit and proper in the circumstances of the case.”

Heard Sri A.Ravinder, learned counsel appearing for the petitioners and learned Government Pleader for Services-II appearing for respondents 1 to 8.

It is the case of the petitioners that initially, they were appointed as daily wage workers through Employment Exchange in the year 1983 and have completed 35 years of service. While so, the State Government has issued G.O.Ms.No.212, Finance & Planning Department, dated 22.04.1994, according to which, those who have completed five years of continuous service as on 25.11.1993, are entitled for regularization. When their cases were not considered for regularization, they approached the Tribunal by filing O.A.No.5951 of 2012 and that the Tribunal *vide* order dated 21.8.2012 directed the respondents to consider the case of the petitioners for regularization of services on completion of five years of service from the date of their initial appointment. In spite of the same, the respondents have not considered their cases. Hence, the writ petition.

The grievance of the petitioners is that though they were fully qualified and eligible for regularization of their services as per G.O.Ms.No.212, dated 22.04.1994, the official respondents are not considering their cases for regularization.

Learned counsel appearing for the petitioners submits that as per the law laid down by the Apex Court in *B.Srinivasulu vs. Nellore Municipal Corporation* (Civil Appeal No.6318 of 2015, dated 17.8.2015), and also as per the judgment

rendered by this Court in W.P.No.33936 of 2011 & batch, dated 2.5.2018, the petitioners are entitled for regularization from the date on which they have completed five years of service. He further submits that though the Tribunal *vide* order dated 21.8.2012 in O.A.No.5951 of 2012 directed the respondents to consider the case of the petitioners for regularization of their services, the respondents have not complied with the same.

Learned Government Pleader appearing for the respondents does not dispute the law laid down by the Apex Court in *B.Srinivasulu vs. Nellore Municipal Corporation* (cited supra).

Having considered the rival submissions made by the learned counsel on either side, 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 in *B.Srinivasulu vs. Nellore Municipal Corporation* (cited supra).

Accordingly, the Writ Petition is disposed of directing the respondents to consider the case of the petitioners from the date of completion of five years service in accordance with G.O.Ms.No.212, dated 22.4.1994 and regularize their services with retrospective effect only for the purpose of pensionary benefits, without monetary benefits, and pass appropriate

orders, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

11th October, 2018
rkk

