

HON' BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P. No. 10498 of 2002

ORDER:-

This writ petition is filed seeking to issue a writ of certiorari calling for the records relating to the Award dated 07.11.2001 in I.D.No. 182 of 1993 passed by the Industrial Tribunal-cum-Labour Court, Anantapur and quash the same by holding it as illegal and arbitrary and consequently direct the respondents to consider the cases of the petitioners for regularization of their services in any suitable post on completion of five years of service.

Heard Sri B. Bhaskar Reddy, learned counsel for the petitioners and the learned Government Pleader for Irrigation and Command Area Development appearing on behalf of the respondents and perused the material placed on record.

The brief facts of the case are that the 2nd and 3rd petitioners were working under the 4th respondent on daily wage basis during 1986, and on completion of five years of service, they requested the respondents to regularize their services by virtue of the orders issued by the Government in G.O.Ms.No. 212, dated 22.04.1994, but the respondents have not regularized their services, as such, the workmen raised an industrial disputed in I.D.No. 182 of 1993 before the Conciliation Officer. After failure of the talks by the

conciliation officer, the Government referred the dispute to the Labour Court under Section 10(1)(c) of the Industrial Tribunals Act, and the Labour Court, after elaborately considering the case of the workmen, dismissed the I.D. by the impugned order 07.11.2001. Challenging the same, the present writ petition is filed.

The learned counsel for the petitioners has contended that this Court, by order dated 13.06.2002, while admitting the writ petition, directed both the parties to maintain *Status Quo* obtained as on that day and by virtue of the interim orders, the workmen have been continuing in service. The only issue remains in this writ petition is that whether the workmen are entitled to consideration of their cases for regularization. It is further contended that even as on today the workmen are being continued in service and their cases deserve to be considered for regularization in view of the judgment of the Apex Court in the case of *Secretary, State of Karnataka v. Umadevi*(3)¹ wherein it is held as under:

“One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V.Narayanappa*, *R.N.Nanjundappa* and *B.N.Nagarajan* and referred to in para 15 above, of duly qualified person in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years 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

¹ (2006) 4 SCC 1

settled by this Court in the cases above-referred 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.”

The learned Government Pleader has not denied the continuation of the service of the workmen, however contended that they are not eligible for regularization in terms of G.O.Ms.No. 212, dated 22.04.1994, as such, their services have not been regularized, and the Labour Court has rightly dismissed the I.D.

Even in the light of the judgment of the Supreme Court and in view of the fact that the workmen have rendered more than thirty years of service, their cases deserve to be considered for regularization.

This Court, having considered the rival contentions of both the parties, is of the opinion that in view of the fact that the workmen have been continuing in service from 1989 till date, ends of justice would be met if the respondents are

directed to consider their cases for regularization in terms of the judgment of the Supreme Court cited supra duly taking into account that they have put in more than three decades of service, if they are otherwise found eligible and qualified, and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

29-08-2018

bcj

ABHINAND KUMAR SHAVILI, J

