

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.5161 OF 2002

ORDER:

1. This Writ petition is filed seeking to issue a Writ of Mandamus declaring the action of the respondents Nos.1 and 2 in not permitting the 3rd respondent to regularize the services of the petitioners in the 3rd respondent-Corporation, as arbitrary, illegal and consequently, to direct the respondents Nos.1 and 2 to accord permission to the 3rd respondent to regularize the services of the petitioners in the 3rd respondent-Corporation.

2. Heard Sri K. Subba Rao, learned Counsel appearing for the petitioners and Sri A.K. Jaya Prakash Rao, learned Standing Counsel appearing for the 3rd respondent.

3. It is the case of the petitioners that they were appointed on daily wage basis in the year 1990 and 1991 and they are being continued in service. Even though the 3rd respondent requested the 2nd respondent to permit him to regularize the services of the petitioners, no action has been taken so far by respondents Nos.1 and 2. Therefore, they filed this writ petition.

4. Learned Counsel appearing for the petitioners submits that as on today, the petitioners are continuing their services

and therefore, the case of the petitioners deserves to be considered for regularization in view of the judgment of the Apex Court in ***Secretary, State of Karnataka and others Vs. Uma Devi***¹, wherein it was observed as under:

“ One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V. Narayanappa (AIR 1967 SC 1071)*, *R.N. Nanjundappa ((1972) 1 SCC 409)* and *B.N. Nagarajan((1979) 4 SCC 507)* 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 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 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.”

5. Having considered the above submissions, this Court is of the considered view that ends of justice would be met if a direction is given to the respondents to consider the case of the

¹ (2006) 4 SCC 1

petitioners for regularization in terms of paragraph No.53 of the judgment of the Apex Court in ***State of Karnataka Vs. U.Uma Devi***.

6. Accordingly, the Writ Petition is disposed of directing the respondents to consider the case of the petitioners for regularization in terms of the decision rendered in ***State of Karnataka Vs. U.Uma Devi*** (cited supra) 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

Dated: 1.11.2018
Nn



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Nn.