

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.44357 OF 2018

ORDER :

This writ petition is filed seeking a writ of mandamus declaring the action of the respondents in not regularising the services of the petitioner from 1994 till date, as arbitrary, unjust and violative of Article 14 and 21 of Constitution of India and sought for a consequential direction to respondents to regularise the services of the petitioner and pay the total service benefits including wage arrears, pensionary benefits to the petitioner.

Heard Sri P.V.Venkata Ravi Sankar, learned counsel for the petitioner and learned Government Pleader for Tribal Welfare.

It has been contended by the petitioner that he was joined the office of the Sectoral Officer, ITDA, Asifabad for clerical work during year 1986-87 and thereafter he was appointed as Horticulture Supervisor on a consolidated remuneration of Rs.300/-p.m. The grievance of the petitioner is that though he is eligible to be regularised as Junior Assistant in terms of G.O.Ms.No.212, Finance & Planning (FWPC-III) Department, dated 22.04.1994 and though the 3rd respondent with whom the petitioner is working also recommended his case to the 2nd respondent for regularising his services, the respondents 1 and 2 are not considering his case for regularisation. Petitioner further contends that he is on the verge of retirement and if his case is not considered for regularisation, he would not be entitled for service benefits for the services rendered with the respondents. Therefore, he contends that appropriate orders be passed directing the respondents to regularise his services in accordance with rules.

Learned counsel for the petitioner submits that the Hon'ble Supreme Court in Special leave to Appeal (c) No (s) 12432/2014 dated 17.08.2018 in ***B.Srinivasulu S/o Padmanbaiah & Ors vs. The Nellore Municipal Corp.Rep by Commisioner*** held as follows:

“In the circumstances, refusing the benefit of the above mentioned G.O. 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 year continuous service as was laid down by this Court in District Collector/Chairperson & Others vs. M.L. Singh & Ors. 2009 (8) SCC 480.”

Relying upon the above judgment, learned counsel for the petitioner contends that writ petition be disposed of directing the respondents to consider the case of the petitioner for regularisation of his services in accordance with the law laid down by the Hon'ble Supreme Court.

Learned Government Pleader for respondents contends that the petitioner was not appointed in accordance with rules, therefore, relief sought by the petitioner cannot be granted and seeks time for filing counter.

This Court, having considered the rival submissions of both the parties, is of the considered view that this writ petition can be disposed of directing the respondents to consider the case of the petitioner for regularisation of services of the petitioner in terms of G.O.Ms.No.212, dated 22.04.1994 by duly taking into account the law laid down by the Hon'ble Supreme Court in Special leave to Appeal (c) No (s) 12432/2014 dated 17.08.2018 and pass appropriate orders within four weeks from the date of receipt of copy of this order.

With these observations, the writ petition is disposed of. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

ABHINAND KUMAR SHAVILI,J

Date: 06.12.2018
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