

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.45653 OF 2018

ORDER

This Writ petition is filed seeking the following relief:

“..to issue writ in the nature of Writ of Mandamus or any other appropriate writ, order, or direction, by declaring the action of the respondents in not regularizing the services of the petitioners, as illegal, arbitrary, and unconstitutional being violative of Articles 14, 16 and 21 of the Constitution of India and consequently direct the respondents to regularize the services of the petitioners in the post in which they are working w.e.f the date of completion of 5 years of service in view of their length of service as they have completed more than 25 years of service uninterruptedly as per law laid down by the Hon'ble Supreme Court of India, in a State of Karnataka vs. U.Uma Devi reported in 2006 (4) SCC 1 as well as order passed by the Hon'ble Court in W.P.No.36805 of 2018, dt.11.10.2018 and to pass such other order or orders as this Hon'ble Court may deems fit just and proper in the circumstances of the case.”

Heard learned counsel on either side.

It is the case of the petitioners that they joined as NMRs in the 1st respondent-Municipality, in the year 1990; that they have completed 28 years of service and that they are entitled for regularization of their services in terms of G.O.Ms.No.212, dated 22.04.1994.

Learned counsel appearing for the petitioners submits that as on today, the petitioners are working as Public Health

Workers and have completed 28 years of service, and hence, their cases deserve to be considered for regularization in view of the judgment of the Apex Court in *State of Karnataka Vs. U.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*¹¹, *R.N. Nanjundappa*¹² and *B.N. Nagarajar*⁸ 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 regularisation 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 regularise 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 regularisation, 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 regularising or making permanent, those not duly appointed as per the constitutional scheme.”

Learned counsel appearing for the respondents contends that there are no vacancies in the 1st respondent and the petitioners have not fulfilled the conditions stipulated in G.O.Ms.No.212 dated 22.04.1994.

¹ (2006) 4 SCC 1

Having considered the rival submissions made by the learned counsel on either side, 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 petitioners for regularization in terms of paragraph No.53 of the judgment of the Apex Court in *State of Karnataka Vs. U.Uma Devi*.

Accordingly, the writ petition is allowed and the respondents are directed to consider the case of the petitioners for regularization in terms of the decision rendered in *State of Karnataka Vs. U.Uma Devi* 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

15th December, 2018
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