

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.234 of 2019

ORDER:

This Writ Petition is filed seeking a Writ of Mandamus declaring the action of respondents in not regularizing the services of petitioner as illegal and unconstitutional and sought a consequential direction to the respondents to regularize the services of the petitioner as per the law laid down by the Hon'ble Supreme Court and as per the order passed by this Court in W.P.No.36805 of 2018 dated 11.10.2018.

Heard Mr.Bharat Shah, learned counsel for petitioner and the learned Government Pleader for Services-II.

It has been contended by the petitioner that he was appointed as a driver in the year 1989 in pursuance of the regular selections conducted by respondents and ever since then, he has been discharging his duties without any complaint.

The grievance of petitioner is that the respondents are not regularizing his services even though the petitioner has put in more than three decades of service.

Learned counsel for petitioner placed reliance on the decision of the Hon'ble Supreme Court in **STATE OF KARNATAKA Vs.**

U.UMA DEVI¹, whereunder 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 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

¹ (2006) 4 SCC 1

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.”

and contends that appropriate orders be passed directing the respondents to consider the case of petitioner for regularisation.

Learned Government Pleader appearing for respondents contended that the case of the petitioner will be examined and appropriate orders would be passed by the respondents.

This Court, having considered the rival submissions, is of the considered view that since the petitioner is working for nearly three decades as a driver with the respondents, his case deserves to be considered for regularisation in terms of the aforesaid judgment of the Hon’ble Supreme Court and also in terms of G.O.Ms.No.212, dated 22.04.1994.

Therefore, the writ petition is disposed of directing the petitioner to submit fresh representation seeking regularization of his services within two weeks from the date of receipt of a copy of this

order. Upon such representation being received, the respondents shall consider the same and pass appropriate orders within four weeks thereafter by duly following the aforesaid judgment of the Hon'ble Supreme Court and also in terms of G.O.Ms.No.212, dated 22.04.1994. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

04-01-2019

Prv

