

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.984 of 2019

ORDER:

The writ petition is filed seeking a Writ of Mandamus declaring the action of respondent No.3 in issuing termination orders dated 10.01.2019 to the petitioners as without jurisdiction, illegal and in violation of principles of natural justice and to declare the action of respondent No.1 in issuing letter dated 10.08.2017 refusing to consider the proposals dated 20.05.2016 of the 2nd respondent for regularization of services of petitioners, as arbitrary, illegal, without application of mind and contrary to the recommendations made in File Note dated 02.05.2015 and sought consequential directions directing the 1st respondent to consider the proposals dated 20.05.2016 of the 2nd respondent and pass appropriate orders.

2. Heard Sri Md.Islamuddin Ansari, counsel for petitioners, Government Pleader for Social Welfare, appearing for respondent No.1 and Sri S.Lakshmikanth, counsel for respondent Nos.2 and 3.

3. It has been contended by the petitioners that they were initially appointed as Sub-Editors with the respondents on contract basis during April, 2001 after following due selection process, and since then they have been discharging their duties to the satisfaction of their superiors and everyone concerned. Though the petitioners were appointed on contract basis initially for a period of one year, the same has been extended from time to time and the petitioners have successfully

completed long length of service. When the respondents were not taking steps for regularizing their services, petitioners have filed W.P.No.32903 of 2010 seeking directions to regularize their services as Sub-Editors from the date of their initial appointment by paying UGC revised pay scales. This Court granted *status quo* orders on 28.12.2010, and by virtue of said orders, the petitioners are being continued in service. The petitioners further contended that after completion of five years of service, they were appointed by Executive Committee through interview during November 2008 and the Executive Committee of respondents 2 and 3 had also resolved to regularize the services of petitioners and submitted proposals to the State Government. The respondents were further pleased to grant regular pay-scale attached to the post of Sub-Editor to the petitioners vide proceedings dated 23.06.2016 and the counsel for petitioners submitted that this Court disposed of W.P.No.32903 of 2010 vide orders dated 13.12.2018, directing the respondents to consider the cases of petitioners for regularization of services and pass appropriate orders in accordance with law within a period of four weeks. Respondents 2 and 3, instead of regularizing the services of petitioners in terms of the orders passed by this Court in W.P.No.32903 of 2010 dated 13.12.2018, have rejected their cases on the ground that the State Government had earlier considered the cases of petitioners for regularization and rejected the same vide proceedings dated 10.08.2017. After rejecting the cases of petitioners for regularization, their services were illegally terminated vide proceedings

dated 10.01.2019. Challenging the same, the present writ petition is filed.

4. Counsel for petitioners contended that the earlier rejection orders passed by the State Government on 10.08.2017 were never brought to the notice of the petitioners and not even brought before this Court when this Court was disposing of the earlier writ petition i.e. W.P.No.32903 of 2010 vide orders dated 13.12.2018, therefore, the earlier rejection orders, which were not communicated to the petitioners nor informed to the Court, cannot be acted upon. It is the 1st respondent, who must consider the cases of petitioners for regularization in terms of the orders passed by this Court in W.P.No.32903 of 2010, dated 13.12.2018, but not respondents 2 and 3. Therefore, the impugned termination orders dated 10.01.2019, are liable to be set aside. Counsel for petitioners further contended that when this Court directed the respondents to consider the cases of petitioners for regularization and pass appropriate orders, respondents 2 and 3, who are not competent authorities, have rejected the cases of petitioners for regularization, contrary to the recommendations made earlier. It is the 1st respondent who must consider the cases of petitioners and pass appropriate orders by duly taking into account the recommendations made by respondents 2 and 3. So far, respondent No.1 has not passed any orders with regard to regularization of services of petitioners on the recommendations of respondents 2 and 3. Therefore, counsel for petitioners contended that the impugned termination orders dated 10.01.2019 are liable to be set aside, as petitioners have been working as contract Sub-Editors since 2001 and they were recruited

pursuant to regular Notifications issued on 02.02.2000 and 19.10.2000. Therefore, the petitioners should be treated as regular Sub-Editors and their cases deserve to be considered for regularization in terms of the recommendations made by respondents 2 and 3 way back in 2008 and 2010. Therefore, counsel for petitioners contended that appropriate orders be passed in the writ petition by setting aside the orders of termination dated 10.01.2019 and further direct the respondents to consider the cases of petitioners for regularization of services by duly taking into account the fact that they were appointed by following due process of selection pursuant to the Notifications issued way back in the year 2000.

5. The Government Pleader and Standing Counsel appearing for respondents have contended that the 1st respondent has rejected the cases of petitioners for regularization of services way back in 2017 i.e. on 10.08.2017, therefore, the question of considering the cases of petitioners once again for regularization, would not arise.

6. This Court, having considered the rival submissions made by the parties, is of the considered view that the impugned orders were passed by respondents 2 and 3 pursuant to the orders passed by this Court in W.P.No.32903 of 2010, dated 13.12.2018, wherein, this Court directed the respondents to consider the cases of petitioners for regularization of services. Admittedly, respondents 2 and 3 are not competent authorities to pass orders with regard to regularization of services of petitioners and it is the 1st respondent, who is competent. Therefore, the impugned

orders terminating the services of petitioners and rejecting the cases of petitioners for regularization of services basing on the earlier rejection orders passed by the Government, are contrary to the orders passed by this Court. Therefore, the impugned orders are liable to be set aside and accordingly, the same are set aside. Respondents 2 and 3 are directed to forward the proposals for regularizing the services of petitioners reiterating their earlier recommendations within two weeks from the date of receipt of a copy of this order. Upon such proposals being received from respondents 2 and 3, the 1st respondent shall consider the cases of petitioners for regularization of services by duly taking into account the long length of service put-in by them, that too, after undergoing regular selection process, and pass appropriate orders in accordance with law within another Eight weeks thereafter.

7. The writ petition is accordingly allowed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

8th November, 2019

ajr