

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.3407 of 2001

ORDER:

This writ petition is filed seeking a Writ of Mandamus, declaring the action of the respondents in not regularizing the services of the petitioner with effect from the date of his initial appointment or at least with effect from 17.08.1992 on par with his juniors, as arbitrary and illegal and to declare the proceedings dated 20.04.1999 issued by the 1st respondent as illegal and arbitrary and to set aside the same in so far as the petitioner is concerned and also direct the respondents to regularize the petitioner's services with effect from the date of his initial appointment or at least with effect from 17.08.1992 duly granting all other consequential reliefs.

Heard Sri K. Vasudeva Reddy, learned counsel for the petitioner, and Sri A. Ravi Babu, learned Standing Counsel appearing for the respondents.

It has been contended by the petitioner that he is fully eligible and qualified to be appointed as Driver and has got his name enrolled with the Employment Exchange. The petitioner further contended that the Employment Exchange was pleased to sponsor his name for appointment to the post of Driver in the respondent Organisation on daily wage basis and he was subjected to regular selection process and after undergoing regular selection process, he was selected and appointed as Driver on daily wage basis vide proceedings dated 21.01.1992 and thereafter he has reported to duty on 23.01.1992.

The grievance of the petitioner is that the services of some of the employees who were appointed along with him and whose names were placed below in the merit list, were regularized with effect from 17.08.1992, whereas the services of the petitioner were regularized with effect from 01.08.1994. In those set of circumstances, the petitioner has submitted a representation to the respondents to regularize his services from the date of his initial appointment i.e., with effect from 21.01.1992 or at least with effect from 17.08.1992, as was done in the case of his batch-mates, but the case of the petitioner was rejected vide proceedings dated 20.04.1999.

Learned counsel for the petitioner submitted that when more than 100 candidates were appointed on daily wage basis vide proceedings dated 21.01.1992, in all fairness, the respondents ought to have regularized the services of the petitioner along with other candidates on a single day or at least the moment regular vacancies have arisen, but the respondents have rejected the case of the petitioner on the ground that the services of candidates who have joined duty on 21.01.1992 were regularized with effect from 17.08.1992 and the candidates who were reported to duty on 24.01.1992 were all given the date of regularization as 01.08.1994. Therefore, the impugned rejection order is liable to be set aside. Learned counsel for the petitioner further submitted that the date of regularization can never be dependent on the date of joining to duty, but it ought to have been based upon the ranking and merit in the

selections. Learned counsel for the petitioner also submitted that since the petitioner along with 107 candidates was given appointment orders vide proceedings dated 21.01.1992 after undergoing regular selection process, in all fairness, the respondents ought to have regularized the services of the candidates based upon the merit in the said selections, but not based on the date of joining.

Learned Standing Counsel appearing for the respondents had drawn attention of this Court to the counter affidavit, wherein it is stated that the persons who were appointed upto 23.01.1992 were assigned the date of regularization as 17.08.1992 and the persons who were given appointment orders on 24.01.1992 were all assigned the date of regularisation as 01.08.1994. It is also stated that depending upon the availability of vacancies, the respondents have regularized the services of all the candidates who were appointed during 1992. Therefore, the impugned rejection order is valid and there are no merits in the writ petition and the writ petition is liable to be set aside.

Having considered the rival submissions of learned counsel for the parties and having perused the counter averments, this Court is of the considered view that the respondents are treating the petitioner as he was appointed on 24.01.1992, which is totally incorrect. The appointment orders were issued to the petitioner on 21.01.1992 and the petitioner was appointed along with 107 candidates. However, the juniors to the petitioner were assigned the date of regularization as 17.08.1992, whereas the petitioner was assigned the date of

regularization as 01.08.1994. Further, the date of regularization cannot be dependent on the date of reporting to duty. Therefore, the impugned order is liable to be set aside.

Accordingly, the writ petition is allowed setting aside the impugned order dated 20.04.1999 and the respondents are directed to regularize the services of the petitioner on par with his batch-mates, who were less meritorious to the petitioner, with effect from 17.08.1992, with all consequential benefits. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

8th August, 2019
v v



