

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.40195 of 2016

ORDER:

This writ petition is filed seeking the following relief :

“..... to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus, to declare the action of the respondents in not considering the claim of petitioner for absorption into last grade service is illegal, arbitrary, and unconstitutional and with a consequential direction to the respondents to consider the claim of the petitioner for revised pay scale by absorbing him to last Grade Service along with others with all consequential benefits”.

2. Heard Sri A.Ravinder, learned counsel for the petitioner and learned Government Pleader for Services-II.

3. It has been contended by the petitioner that he was initially appointed as sweeper in the year 1994 and ever since, he has been discharging his duties to the best satisfaction of his superiors and everyone concerned. Petitioner further respectfully submits that he has been discharging his duties for more than two and half decades and the respondents are not considering his case for absorption into Last Grade Service. Petitioner has submitted a representation to the 4th respondent on 09.07.2014 to absorb him into last grade service.

4. Learned counsel for the petitioner has also contended that the Hon'ble Supreme Court in **Secretary, State of Karnataka Vs Umadevi**¹, had directed that employees who have rendered more than ten years of service and were being continuing without intervention of Court orders, have to be considered for regularization of their service as one time measure by directing the employer to formulate a scheme.

5. Learned counsel for the petitioner contends that since petitioner has rendered more than two and half decades of service,

¹ 2006 (4) SCC 1

respondents are bound to consider the case of petitioner for absorption into last grade service.

6. Learned Government pleader appearing for the respondents had contended that the petitioner was not appointed in a sanctioned post, therefore, petitioner is not entitled for regularization of service. There are no merits in the writ petition and the same is liable to be dismissed.

7. This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that the contention of respondents that petitioner was not appointed in a sanctioned post may not be correct. The fact that petitioner was allowed to continue for more than two and half decades, itself discloses that petitioner was appointed in a sanctioned post and respondents are bound to consider the case of petitioner for absorption into last grade service.

8. Having regard to the above observations, the Writ Petition is disposed of directing the petitioner to submit a fresh representation staking his claim for absorption into last grade service within two weeks from the date of receipt of copy of this order and upon such representation being received, the respondents shall consider the same by duly taking into account the judgment rendered by the Hon'ble Supreme Court in Secretary, State of Karnataka case (supra) and pass appropriate orders in accordance with law, in another six weeks thereafter. No order as to costs. Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

17th September, 2019
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Dated : 17.09.2019

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