

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.44943 of 2017

ORDER:

With the consent of both the parties, this Writ Petition is disposed of at the admission stage.

This Writ Petition is filed for the following relief:

“.....Writ of Mandamus declaring action of the respondents in not regularizing the services of the petitioners from the date of completion of 5 years of service and not counting the temporary service rendered by the petitioners from the date of completion of 5 years of service for all retirement benefits including pensionary benefits, is illegal, arbitrary, unjustified and violative of Articles 14,16 and 21 of Constitution of India and contrary to the Hon'ble Supreme Court Judgment in Civil Appeal No.6318/2015, dt.17.08.2015 and consequently direct the respondents to count the temporary service rendered by the petitioners from the date of completion of 5 years of service for the purpose of counting the qualifying service for fixation of pension and extending all the pensionary benefits from the date of completion of 5 years of service on temporary basis and to pass.....”

Heard Sri K.Sarath, learned counsel for the petitioners and the learned Government Pleader for Services-II.

It has been contended by the petitioners that they were initially appointed on daily wage basis during 1987-88. The petitioners further contend that though they have been agitating for regularization of their services, respondents have not considered their cases in terms of G.O.Ms.No.212 Finance and Planning dt.22.04.1994, but considered their cases in terms of

G.O.Ms.No.188 Social Welfare (TW.Ser.III) Department
dt.08.03.2011 and regularized their services prospectively,
instead of regularizing their services retrospectively.

Learned counsel for the petitioners contends that the Hon'ble Supreme Court in **B.Srinivasulu v. Nellore Municipal Corporation** in Civil Appeal No.6318 of 2015 dt.17.08.2015 held that the daily wage employees are entitled for regularization of their services from the date of their initial appointment with retrospective effect. He further submits that, following the said judgment, the Division Bench of this Court also disposed of W.P.No.41979 of 2015 vide order dt.06.03.2017 with similar directions. The learned counsel, therefore contends that in view of the above said judgments, the petitioners are entitled for regularization of their services with retrospective effect and that the petitioners have submitted a representation to the respondents to that effect. He, therefore, contends that appropriate orders be passed directing the respondents to consider the cases of petitioners for regularization of their services with retrospective effect i.e., from the date of their completion of five years of service in terms of G.O.Ms.No.212, dt.22.04.1994.

Learned Government Pleader for respondents submits that the representation dt.31.05.2017 submitted by the petitioners would be considered and appropriate orders would be passed in terms of the judgment of the Hon'ble Supreme Court in **B.Srinivasulu's** case (1 supra) in Civil Appeal No.6318 of 2015

dt.17.08.2015 and also in terms of the judgment dt.06.03.2017 rendered by the Division Bench of this Court in W.P.No.41797 of 2015.

This Court, having considered the rival submissions made by the learned counsel on either side, is of the considered view that this writ petition can be disposed of directing the respondents to consider the cases of petitioners for regularization of their services with retrospective effect by passing appropriate orders on the representation submitted by the petitioners on 31.05.2017 by duly taking into account the judgment rendered by the Hon'ble Supreme Court in **B.Srinivasulu's** case (1 supra) in Civil Appeal No.6318 of 2015 dt.17.08.2015 and also the judgment dt.06.03.2017 rendered by the Division Bench of this Court in W.P.No.41797 of 2015 in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

With the above observations, the Writ Petition is disposed of. No order as to costs.

As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

10.07.2019
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