

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.4418 OF 2019

ORDER:

Heard Sri Bhanu Murthy Bala, learned counsel for the petitioner and the learned Government Pleader for Services-II.

This writ petition is filed seeking a Writ of Mandamus declaring the action of the respondents in not considering the petitioner's service for regularization as per the provisions of G.O.Ms.No.16 dated 26.02.2016, as illegal and arbitrary.

It has been contended by the petitioner that she was appointed as daily wage worker with the respondents for the academic year 1995-1996. Later, her services were again engaged vide proceedings dated 17.07.1996 and ever since then, she has been discharging her duties to the best satisfaction of her superiors and everyone concerned. She further contends that the State Government has taken a policy decision vide G.O.Ms.No.16 dated 26.02.2016 wherein it had decided to regularise the services of the daily wage workers who have completed 10 years of service as on 10.04.2006, as a one time measure.

Learned counsel for the petitioner contends that a Public Interest Litigation i.e., PIL.No.122 of 2017 has been filed before the Division Bench challenging G.O.Ms.No.16, dated 26.02.2016 and the Division Bench of this Court granted interim direction directing the respondents to regularise the services of only such of those daily wage workers who have completed 10 years of service as on 10.04.2006. He also relied upon the judgment of the Apex

Court in ***State of Karnataka and Ors vs. Umadevi***¹, wherein the Apex Court has held that employer has to consider the cases of the employees who have completed more than 10 years of service for regularization by framing a scheme. He further contends that though the petitioner has completed 10 years of service as on 10.04.2006, the respondents are not considering the case of the petitioner for regularisation as per the judgment of the Hon'ble Apex Court in ***Umadevi's*** case stated supra. Therefore, he contends that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for regularisation strictly in terms of the judgment of the Hon'ble Apex Court in ***Umadevi's*** case stated supra and also in terms of G.O.Ms.No.16 dated 26.02.2016.

Learned Government Pleader appearing for the respondents had drawn the attention of this Court to the counter affidavit filed by the respondents wherein it is specifically pleaded that the petitioner has not completed 10 years of service as on 10.04.2006 and since petitioner has not completed 10 years of service as on 10.04.2016, she is not entitled for regularisation of her services. Therefore, he contends that there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions of the learned counsel appearing for the respective parties is of the considered view that petitioner has completed 10 years of service as on 10.04.2016 and the respondents are calculating the service

¹ 2006 (4) SCC (1)

of the petitioner only from 17.07.1996 which is not in accordance with the Rules. A perusal of the proceedings dated 17.07.1996 would disclose that the persons who have continued for the year 1995-96 are reappointed vide proceedings dated 17.07.1996. If the earlier service rendered by the petitioner is taken into account, admittedly petitioner would be completing 10 years of service as on 10.04.2006. By way of incorrect calculation, the respondents are denying regularisation in favour of the petitioner.

Since the petitioner has completed 10 years of service as on 10.04.2006, which can be culled out vide proceedings dated 17.07.1996, the respondents are directed to consider the case of the petitioner for regularisation strictly in terms of the law laid down by the Hon'ble Apex Court in **Umadevi's** case stated supra and G.O.Ms.No.16 dated 26.02.2016 and pass appropriate orders in accordance with law within a reasonable period, preferably within a period of eight weeks from the date of receipt of a copy of this order.

With the above observations, this writ petition is disposed of. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 07-01-2020
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