

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos.15294, 15295, 15314 & 15315 of 2014

COMMON ORDER:

All these writ petitions are being disposed of by way of this common order, as the issue raised in these writ petitions is one and the same. For the purpose of convenience, the facts as narrated in W.P.No.15294 of 2014 are discussed hereunder.

2. The writ petition is filed seeking a Writ of Mandamus declaring the inaction of respondents in regularizing the petitioners' services as Messengers/Sweepers/Attenders etc., since the dates of their joining into service of the 1st respondent-Bank, which period varies from 5 to 12 years, as arbitrary, illegal, contrary to Articles 14, 16 and 21 of the Constitution of India and sought consequential direction directing the respondents to regularize the petitioners' services as Messengers/Sweepers/Attenders etc., in the 1st respondent-Bank from the dates of their joining into service with all service benefits.

3. Heard learned counsel for the parties.

4. It has been contended by the petitioners that they were initially appointed on daily wage basis as Messengers/Sweepers/Attenders etc., with the 1st respondent-Bank and have been discharging their duties to the best satisfaction of superiors and every one concerned. The grievance of the petitioners is that though they are working on daily wage basis for more than 10 years and are entitled for regularization of their services in terms of the law laid down by the Hon'ble Supreme Court in

Secretary, State of Karnataka & others v. Umadevi & others¹, the respondents are not regularizing their services. Counsel for petitioners further contends that similar issue has fell for consideration before this Court in **Atlur Krishnaiah & others v. Chairman, Andhra Pragathi Grameena Bank, Kadapa & others²**, whereby, this Court disposed of a batch of writ petitions with the following observations :

- “(a) Petitioners in all the writ petitions be subjected to selection process in pursuant to the recruitment exercise taken up in the year 2010 to fill vacancies in the post of Office Attendants (Multipurpose) without insisting that their names should be sponsored by Employment Exchange/or any other agency.*
- (b) While considering for such recruitment, the Bank may evolve some procedure/scheme to grant weightage to petitioners in WP.No.14457 of 2010 having regard to the service rendered by petitioners, subject to such service being satisfactory. They shall also be extended relaxation in age if they were within the age when they were initially engaged.*
- (c) If petitioners in WP.Nos.37521, 37522 and 38457 of 2012 are also similarly situated to petitioners in WP.No.14457 of 2010, they may also be extended the same benefits as extended to those petitioners.”*

5. Counsel for petitioners has contended that pursuant to the above orders passed by this Court, the respondent-bank therein framed a scheme for absorption of petitioners in those writ petitions. It is

¹ (2006) 4 SCC 1

² 2017 (4) ALD 315

submitted that the petitioners in the present writ petitions are also similarly situated as they are also working in Grameena Bank and on the same analogy, the present writ petitions also can be disposed of directing the respondents to frame a scheme for absorption, by duly taking into account the fact that the petitioners are discharging their duties for more than 10 years, and further direct the respondents to regularize the services of petitioners in terms of the said scheme.

6. Counsel for petitioners has also relied on an unreported judgment of this Court in W.P.No.24779 of 2011, dated 27.12.2017, whereby, this Court disposed of the said writ petition directing Chaitanya Godavari Grameena Bank to formulate a scheme and regularize the services of petitioners therein. Counsel for petitioners contends that appropriate orders be passed in the present writ petitions also, directing the respondents to frame a scheme as was done in W.P.No.24779 of 2011, dated 27.12.2017 and consider the cases of petitioners for regularization of services.

7. The Standing Counsel appearing for respondents has contended that the Courts cannot give directions to formulate a scheme and that there are no merits in the writ petitions and the same are liable to be dismissed. The Standing Counsel has further contended that the petitioners have not worked for more than Ten years, therefore, they are not eligible for regularization. It is contended that the cases of petitioners were placed before the Board for framing a scheme, but the Board has

rejected their cases. On this ground also, the Standing Counsel for respondents has contended that the writ petitions are liable to be dismissed.

8. This Court, having considered the rival submissions made by the parties, is of the considered view that these writ petitions can be disposed of with the following directions :

- “(a) The respondents shall evolve a scheme for regularization taking due note of the observations made above and grant regularization of services of all the petitioners, subject to assessment of their suitability.*
- (b) Petitioners be subjected to selection process to the posts of Office Attendants (Multipurpose) without insisting that their names should be sponsored by Employment Exchange or any other agency.*
- (c) While considering for such recruitment, having regard to long service rendered by petitioners, the Bank may evolve some procedure/scheme to grant weightage to petitioners for the service rendered subject to such service being satisfactory. Their eligibility as to age and educational qualification has to be assessed as directed in the order dated 27.12.2017 in W.P.No.24779 of 2011.*
- (d) It is made clear that such consideration is confined only to those persons who are actually in service and it is not applicable to the persons who have left the service or died.*

(e) *The entire exercise should be completed as expeditiously as possible, preferably within a period of six months."*

9. As far as the contention of the Standing Counsel that the petitioners have not completed 10 years of service and therefore, they are not eligible for regularization is concerned, it is for the respondents to frame a scheme and if the petitioners are fulfilling the conditions of the scheme, then the cases of petitioners have to be considered in accordance with the scheme, but it is for the respondents to verify each individual case of petitioners whether they have completed 10 years of service or not. Making a bald statement that the petitioners have not completed 10 years of service would not disentitle the petitioners for consideration of their cases for regularization.

10. Another contention of the Standing Counsel that the cases of petitioners were placed before the Board for framing a scheme for regularization and the same is rejected, is also without substance. No such proceedings of the Board were placed before this Court and no such contention was raised in the counter affidavit. In the absence of a specific pleading in the counter affidavit, the Standing Counsel cannot be permitted to raise such issues. Therefore, the above directions are given to the respondents to consider the cases of petitioners and pass appropriate orders in accordance with law.

11. With the above directions, all the writ petitions are disposed of.

No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

9th January, 2020

N.B:

Office to annex a copy of the order
dated 27.12.2017 in W.P.No.24779 of 2011
to this order.

(b/o)

ajr

