

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

AND

THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

Writ Petition No.22464 of 2004

ORDER : *(Per Hon'ble Justice Abhinand Kumar Shavili)*

This Writ Petition is filed by the petitioner under Article 226 of the Constitution of India seeking a *Writ of Certiorari* by calling for the records leading up to and inclusive of the order of the Central Administrative Tribunal O.A.No.688 of 2003 dated 30.09.2004 and to set aside the same; and further declare the action of the respondents in not appointing the petitioner as 'Attender' pursuant to the selections held and offer of appointment issued vide Proceedings No Prl.A.G.AUI/Admn/Rectt-43/2002-03/249 dated 05.03.2003 as arbitrary, discriminatory and amounting to colourable exercise of power and authority; and consequently to direct the respondents to appoint the applicant as Group-D Peon in accordance with the offer of appointment in Proceedings No.Prl.A.G.AU.I/Admn.I/Rectt-8-43/2002-03/249 dated 05-03-2003 with all consequential benefits.

2. Heard Mr. P. Sri Raghu Ram, learned counsel for the petitioner, and the learned Assistant Solicitor General of India, for the respondents.

3. Learned counsel for the petitioner contended that petitioner was working as a 'Casual Labourer' with the respondents since 1998; the respondents have issued a notification to fill up the post of Group-D post; thereafter, the petitioner responded to the said notification and fared decently well in the said selection; however, the respondents have cancelled the notification; aggrieved by the same, the petitioner approached the Central Administrative Tribunal; the Tribunal, vide order dated 30.09.2004, passed in O.A.No.688 of 2003, was pleased to dismiss the O.A.; since 1998 onwards, the petitioner was working and the notification which was issued by the respondents to fill up the Group-D post was also cancelled; and therefore, prayed this Court to pass appropriate orders in the Writ Petition by directing the respondents to consider the case of petitioner for regularisation of her services by duly taking into account the fact that petitioner

had been discharging her duties as 'Casual Labourer' since 1998.

4. On the other hand, learned counsel for the respondents contended that the prayer of the petitioner before the Tribunal is not in respect of regularization, but it was only in respect of challenging the cancellation of notification; it is the prerogative of the employer to cancel the notification and no court can interfere in directing the employer to fill up the vacancies; the Tribunal was justified in dismissing the O.A.; therefore, there are no merits in the Writ Petition and the same is liable to be dismissed.

5. This Court, having considered the rival submissions made by the parties, is of the considered view that the Writ Petition can be disposed of by directing the respondents to consider the case of petitioner for regularization of her services by duly taking into account the law laid down by the Hon'ble Apex Court in **State of Karnataka vs. Uma Devi**¹. However, since the petitioner is still working as on to-day, the Writ Petition is disposed of with the above observations. No costs.

¹ (2006) 4 S.C.C. 1

6. As a sequel, miscellaneous applications pending if any in this Writ Petition, shall stand closed.

ABHINAND KUMAR SHAVILI, J

NAMAVARAPU RAJESHWAR RAO, J

Date : 13.10.2022
Ndr