

HONOURABLE SRI JUSTICE E.V.VENUGOPAL

WRIT PETITION No.6246 of 2020

ORDER:

1 Heard Sri Maddileti Maramunagala, learned counsel for the petitioners and the learned Government Pleader for Services III for the respondent.

2 Seeking to declare the inaction of the respondents in implementing the pay scale of the last grade servants from 2010 onwards as illegal and arbitrary and to direct the respondents to pay the enhanced wages enhancing the wages from 6,700/- to 13,000/-, the petitioners filed the present writ petition under Article 226 of the Constitution of India.

3 The case of the petitioners is that the petitioners have been working in the Agriculture Marketing Committee as Security Guards for a long time. They are authorized to collect the market fee as per the provisions of the Telangana Agriculture Products and Market Rule No.78. Guidelines were issued as per Circular dated 28.03.2012 wherein it was stated that all personnel engaged on outsourcing basis shall be through an Agency selected by the District Collector. The Commissioner and Director of Agriculture Market Committee, Government of A.P. issued guidelines vide Letter S-III (1) 4314/2010 dated 06.07.2012 fixing the remuneration of Rs.6,700/- per month on par with last grade employees to the security guards working in the Agriculture

Market Committee (AMC). It is further submitted that the Principal Secretary to the Government directed the Commissioner and Director AMC on 06.03.2014 not to remove the security guards working at present in the AMCs throughout the State pending re-organisation of the State and restructuring of vigilance and security human resource policy. It is further submitted that petitioners submitted a representation on 10.08.2014 for payment of DA & HRA in addition to the consolidated wages of Rs.6,700/- paid to them and to regularize their services. It is further submitted that the Director of Agriculture Marketing Committee through letter dated 27.08.2015 requested the Government to enhance the wages from Rs.6,700/- to Rs.13,000/- which is minimum time scale post of last grade service as was ordered in the earlier PRC 2015. It is the further case of the petitioners that the Additional Director of Marketing vide proceedings dated 09.03.2016 had accorded permission to all the Secretaries of AMCs for payment of enhanced wages of Rs.12,000/- per month from January, February and March, 2016 duly meeting from available savings of AMCs concerned and also permitted to provide sufficient provisions under relevant head for 2016-17 April onwards. The Government of Telangana issued G.O.Ms.No.14 dated 19.02.2016 fixing the remuneration for the outsourcing unskilled at Rs.12,000/- per month and those orders were implemented with effect from 2016. It is further submitted that instructions were

also issued vide Memo dated 14.06.2017 according permission to all the AMCs in the State to register separate PF Code for more than 19 persons and also permitted to pay EPF scale from the concerned AMCs from April 2017 onwards duly following the guidelines of the EPF.

4 The learned counsel for the petitioners submits that the petitioners as security guards are not only guarding the properties of the AMCs but also collecting the market fee at the check post and arresting leakage of revenue of the AMCs. He further submits that the petitioners have to deposit the collected marketing fee into banks, in other words, they are dealing financial matters of the AMCs, thereby the petitioners are put to much hardship by the principal employers of the AMCs and treating of the security guard on par with watchman and making payment of Rs.12,000/- is illegal. Therefore, a direction is sought for to implement the pay scales of last grade employees in the PRC 2015 as implemented to the regular employees of the Telangana Government and regularization of their services.

5 The learned counsel for the petitioners further relies upon the orders passed by the Hon'ble Apex Court in the case of **State of Karnataka Vs. Uma Devi**¹ and another judgment **State of**

¹ (2006) 4 SCC 1

Punjab Vs. Jagit Singh² and submits that the case of the writ petitioners also stands on the same footing.

6 The learned counsel for the petitioners further submitted that the petitioners have filed W.P.No.1203 of 2019 seeking regularization of their services in view of the fact that they are working for the last twenty years. He also seeks to implement the pay scales of last grade employees as was implemented in the PRC 2015 on par with the regular employees of the Government.

7 On the other hand, the learned Government Pleader, basing on the averments made in the counter affidavit, submitted that as petitioner the representation of the Security Guards Union for payment of HRA and DA and regularization of their services, the office of the Director of Agricultural Marketing, vide letter dated 10.08.2014 informed to the Government that the service rules of any service in the department are not applicable to the security guards engaged through outsourcing agencies by the AMCs to regularize their services. He further submitted that when the petitioners are engaged through outsourcing agencies by the AMCs, their services cannot be regularized and that there are no such posts of Security Guards existing in the Market Act & Rules. Hence the regularization of their services does not arise.

² (2017) 1 SCC 148

8 The learned Government Pleader further submitted that as per the representation of Telangana Rashtra Market Committee Security Guards Association, dated 12.09.2016, a report was sent to the Government on 28.11.2016 stating that 1) the services of the Security Guards cannot be regularized as IV Class employees of AMC Service as there are no such Rules in force, 2) the Security Guards are working in AMCs purely engaged through outsourcing agencies only and that the removal of 3rd party is not possible and the AMCs cannot pay them directly from their funds for which there are no Rules existing, and 3) the Security Guards are being paid on 3rd party payment basis only and hence provision for providing DA and HRA cannot be considered.

9 The learned Government Pleader further submitted that there is no provision for payment of ex-gratia to the Security Guards, but on humanitarian grounds ex-gratia is being paid by the AMCs in cases of certain accidental death where the fault does not lie with them.

10 The learned Government Pleader finally submits that since the petitioners are not working in sanctioned posts they are not entitled for regularization and other benefits and prayed to dismiss the writ petition.

11 Having heard the learned counsel on both sides, this Court is of the considered opinion that the petitioners are not entitled to

the relief sought for, for the reason that they have not produced any material to show that the services of the Security Guards can be regularized as IV Class employees of AMC Service. It is also an admitted fact that the petitioners have filed W.P.No.1203 of 2019 and in the absence of any adjudication in that writ petition with regard to their regularization, the present writ petition deserves no consideration. Further, the petitioners are working in AMCs purely engaged through outsourcing agencies only and that they have no direct nexus to the department. Further, the AMCs are not paying them directly from their funds for which there are no Rules existing and that the Security Guards are being paid on 3rd party payment basis only.

12 In the absence of any material available on record fortifying the stand of the petitioners, this writ petition has no merit to stand and the same is liable to be dismissed.

13 In the result, the writ petition is dismissed. No order as to costs. Miscellaneous petitions if any pending in this writ petition shall stand closed.

Date: 28.02.2023
Kvsn

E.V.VENUGOPAL, J.