

**CWP-3413-2020****-2-**

order dated 08.05.2017 w.e.f. 29.07.2011 (Annexure R-1) in pursuance to the directions dated 22.07.2016, issued by this Court in CWP-16355-2012 filed by the petitioner, however, she is entitled to be regularized in terms of policy dated 01.10.2003 (Annexure P-10). Further, the petitioner has been treated differently than Ms. Ram Rati, who was also part time employee and was regularized in terms of 2003 policy.

3. On the other hand, learned counsel for the respondents submits that firstly the present petition is liable to be dismissed on the principle of *res judicata* as the said relief which is being claimed in the present petition was available to the petitioner when she had filed the earlier writ petition, which was allowed in her favour and directions were issued to consider her claim for regularization under the policy dated 29.07.2011. He further submits that the policy dated 01.10.2003 is not applicable to part time employees and since the policy itself is not applicable in the case of the petitioner, therefore, she cannot claim regularization under the said policy.

4. I have heard learned counsel for the parties and perused the record.

5. The facts are not in dispute. The services of the petitioner have been regularized vide order dated 08.05.2017 w.e.f 29.07.2011 (Annexure R-1) on the post of Sweeper in pursuance to the directions issued by this Court in the earlier writ petition No.16355 of 2012 filed by her which has attained finality. It is also apt to mention here that petitioner had earlier filed CWP No.9616 of 2005 praying for regularization of her service as part time Sweeper which was dismissed by this Court vide order dated 18.07.2006 by passing the following order:-

" The petitioner is, admittedly, part time worker. She is claiming regularization. She cannot be granted the relief of regularization



CWP-3413-2020

-3-

*in view of the law laid down by the Supreme Court in the case of **State of Haryana Vs. Charanjit Singh, 2005 (6) SLR, 693 and Secretary, State of Karnataka Vs. Uma Devi, 2006 (3) SLR,1.***

The relief which is being sought in the present petition was available to the petitioner when she had filed the earlier two writ petitions. The plea raised by the learned State counsel with regard to maintainability of petition on the principle of *res judicata* is substantial and required to be accepted. The Hon'ble Supreme Court in the Judgement dated 02.02.2011 passed in Civil Appeal No.1215 of 2011 (arising out of Special Leave Petition (C) No.26391/10 in case titled as '**M. Nagabhushana versus State of Karnataka and others' AIR 2011 SC (CIVIL), 483** has explained the doctrine/principles of *resjudicata* qua its applicability to the writ petitions, after considering the various judgments, has held that "the principles of Constructive Res Judicata, as explained in explanation IV to Section 11 of the Civil Procedure Code, are also applicable to the writ petitions". The relevant paras of the said Judgement explaining the doctrine/principles of *resjudicata*, read as under:-

xxx xxx xxx xxx

“ 14. The principles of *Res Judicata* are of universal application as it is based on two age old principles, namely, 'interest reipublicae ut sit finis litium' which means that it is in the interest of the State that there should be an end to litigation and the other principle is 'nemo debet his ve ari, si constet curiae quod sit pro un aet eademn cause' meaning thereby that no one ought to be vexed twice in a litigation if it appears to the Court that it is for one and the same cause. This doctrine of *Res Judicata* is common to all civilized system of jurisprudence to the extent that a judgment after a proper trial by a Court of competent jurisdiction should be regarded as final and conclusive determination of the questions litigated and should



for ever set the controversy at rest.

15. *That principle of finality of litigation is based on high principle of public policy. In the absence of such a principle great oppression might result under the colour and pretence of law in as much as there will be no end of litigation and a rich and malicious litigant will succeed in infinitely vexing his opponent by repetitive suits and actions. This may compel the weaker party to relinquish his right. The doctrine of Res Judicata has been evolved to prevent such an anarchy. That is why it is perceived that the plea of Res Judicata is not a technical doctrine but a fundamental principle which sustains the Rule of Law in ensuring finality in litigation. This principle seeks to promote honesty and a fair administration of justice and to prevent abuse in the matter of accessing Court for agitating on issues which have become final between the parties.*

xxx xxx xxx xxx

30. *In the premises aforesaid, it is clear that the attempt by the appellant to re-agitate the same issues which were considered by this Court and were rejected expressly in the previous judgment in All India Manufacturers Organisation (supra), is a clear instance of an abuse of process of this Court apart from the fact that such issues are barred by principles of Res Judicata or Constructive Res Judicata and principles analogous thereto.”*

6. Further, a perusal of the policy dated 01.10.2003 shows that the same is applicable to the adhoc/contract employees; daily wage employees (Group-C) and daily wage employees (Group-D) and is not applicable to the part time employees.

7. So far as the plea raised by the learned Senior counsel for the petitioner that the petitioner has been treated differently than Ms. Ram Rati, who was also part time employee and was regularized in terms of 2003 policy is



CWP-3413-2020

-5-

concerned, the said contention cannot be accepted as no document has been placed on record with the writ petition to support the said contention.

8. In this view of the matter, there is no merit in the present petition, the same is hereby, dismissed.

07.11.2024
renubala

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No