



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3329]

WEDNESDAY, THE EIGHTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 5669/2020

Between:

1. P B V V D PRASAD, S/O P.TULASI NARAYANA, AGED ABOUT 38 YEARS, OCC NMR COMPUTER OPERATOR, R/O.D.NO.24/341, ZANDA STREET, RAMANAIDUPETA, MACHILIPATNARN-KRISHNADISTRICT.
2. MANHE RAIESH,, S/O.GATTIYYA, AGED ABOUT 32 YEARS OCC NMR COMPUTER OPERATOR, R/O. SURAPPAGUDER BHIMADOLE WEST GODAVARI DISTRICT.
3. ANGARA RAVI KUMAR,, S/ O.ANGARAVASANTHA RAO, AGED ABOUT 38 YEARS, OCC NMR COMPUTER OPERATOR, SATHAVAHAN NAGAR, SANIVARAPUPETA ELURU (M), W. G.DISTRICT.
4. PETLASRINIVAS,,S/O.P.BABU. RAO, AGED ABOUT 39 YEARS OCC. NMR SECTION WRITER, D.NO. 20/516-4.77, NGOS COLONY, 4TH LANE BESICTE, COLLECTORS BUNGALOW, CHILAKALAPUDI, MACHILIPATNAM, KRISHNA DISTRICT.
5. MANDANANI BABU,, S/O. M.GANAPATHI, AGED ABOUT 42. YEARS, OCC. NMR- NIGHT WAT-HXNAN, R/O.. D.NO. 20/659-7B, RTC COLONY, NEAR HARIUMAN TEMPLE-ROAD, RADAR ROAD, MACHILIPATNAM, KRISHNA DISTRICT.

...PETITIONER(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP BY ITS PRINCIPAL SECRETARY SOCIAL WELFARE DEPARTMENT, SECRETARIAT TADEPALLI, AMARAVATHI.
2. ANDHRA PRADESH SCHEDULE CASTE, CORPORATIVE

FINANCE CORPORATION. LTD., REP BY ITS THE VICE CHAIRMAN
86-MANAGING DIRECTOR, APSCCFC LTD, SP RIVERVIEW
APARTMENTS, 3RD 86 4TH FLOOR, TADEPALLI, AMARAVATHI.

3. DISTRICT COLLECTOR 86 CHAIRMAN, DISTRICT SCHEDULE
CASTE SERVICE CORPORATIVE SOCIETY LTD., MACHILIPATNAM,
KRISHNA DISTRICT,

4. DISTRICT COLLECTOR 86 CHAIRMAN, DISTRICT SCHEDULE
CASTE SERVICE CORPORATIVE SOCIETY LTD., ELURU, WEST
GODAVARI DISTRICT

5. EXECUTIVE DIRECTOR, DISTRICT SCHEDULE CASTE SERVICE
CORPORATIVE SOCIETY LTD., MACHILIPATNAM, KRISHNA
DISTRICT

6. EXECUTIVE DIRECTOR, DISTRICT SCHEDULE CASTE SERVICE
CORPORATIVE SOCIETY LTD., ELURU, WEST GODAVARI
DISTRICT

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue appropriate Writ, order or orders more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondent in regularizing petitioners services against the sanctioned vacant posts are bitterly illegal and unjustifiable and opposite to the various Judgements of the Apex Courts and unconstitutional and violative of Articles 14, 16 of Constitution of India and consequently direct the respondents 2 to 4 to regularize petitioners services against the suitable sanctioned vacant posts based on petitioners length of service and educational qualifications along with all consequential benefits in the interest of justice

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to issue a direction to the respondents to continue the petitioners in service by paying Minimum Time Scale attached to the post pending disposal of the Writ Petition

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased

maybe pleased to grant leave of this Hon'ble Court and permit the petitioners/respondents to file Counter in WP No. 5669 of 2020 and pass

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to vacate the interim orders passed in LA. No. 1 of 2022 in W.P. No. 5669 of 2020, dt. 15.11.2022 and pass

IA NO: 3 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Pleaded to grant leave of this Hon'ble Court and permit the petitioners / Respondents to file Counter in WP No. 5669 of 2020 and pass

IA NO: 4 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Pleaded to vacate the interim orders passed in IA No. 1 of 2022 in WP No. 5669 of 2020 dt. 15-11-2022 and pass

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Pleaded to vacate the orders passed by this Hon'ble Court vide Order dated 15.11.2022 in W.P. No. 5669 of 2020 and dismiss the present writ petition as it is devoid of merits and may be pleased to pass

Counsel for the Petitioner(S):

- 1.P VIVEK

Counsel for the Respondent(S):

- 1.GP FOR SOCIAL WELFARE (AP)
- 2.GANDRALA RATHNA KUMAR SC For APSCCFC LTD
- 3.CHINTA CHINA SATYANARAYANA (SC FOR APSCCFC)
- 4.CHITNA CHINA SATYANARAYANA (SC FOR APSCCFC)

The Court made the following:

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 5669/2020

ORDER:

This writ petition is filed under Article 226 of the Constitution of the India seeking the following reliefs:-

“to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondents in regularizing petitioners services against the sanctioned vacant posts are bitterly illegal, unjustifiable, opposite to the various of Judgements of the Apex Court, unconstitutional and violative of Articles 14, 16&21 of Constitution of India and consequently direct the respondent Nos.2 to 4 to regularize petitioners services against the suitable sanctioned vacant posts based on petitioners length of service and educational qualifications along with all consequential benefits in the interest of justice and pass such other order.”

2. The grievance of the petitioners in short is that the respondents are not regularizing the petitioners' services against the sanctioned vacant posts. Hence, the present Writ Petition is filed.

3. Learned counsel for the petitioners submits that petitioner No.1 joined in the 5th respondent corporation on 12.10.2005 as a NMR Computer Operator, petitioner No.2 joined in the 6th respondent Corporation as a NMR Computer Operator on 04.07.2011, petitioner No.3 joined in the 6th respondent Corporation as a NMR Computer Operator on 08.03.2013, petitioner No.4 joined in the 5th respondent Corporation as a Section Writer on 15.10.2007, petitioner No.5 joined in the 5th respondent Corporation as a Night Watchman on 10.04.1997 respectively. He further submits that the petitioners

submitted a letter dated 12.07.2019 to the Social Welfare Department stating that since more than 21 years the petitioners are possessing all the requisite qualifications and are being continued in service, though there exists clear sanctioned posts in various cadres lying vacant. Further, the petitioners are working against the sanctioned posts. In reply, the Minister for Social Welfare Department issued an endorsement to examine and to initiate necessary action to the respective corporations. Then, respondent No.4 addressed a letter dated 23.08.2019 to furnish all the details of the NMR employees and their service particulars. Later, respondent Nos.5 and 6 submitted their statement clearly showing the service particulars.

4. Learned counsel for the petitioners further submits that the respondent corporations used to join the employees as NMRs who possess the qualifications for appointment as a regular employee. After completing the minimum required service, the said employees are promoted to various posts by regularizing their services from the date of their entitlement. He further submits that the petitioners herein are also similarly placed persons and they are entitled for similar benefits. There is a threat of termination of the petitioners from their services and the respondents are trying to replace the petitioners with the other regular employees from different

corporations, though the petitioners are rendering their services without any remarks.

5. Learned Standing Counsel for the respondents submits that the petitioners were never appointed through any regular process. They were engaged only on a daily wage/NMR basis to meet temporary exigencies in the District Scheduled Caste Service Cooperative Societies of Krishna and West Godavari Districts and no appointment orders were issued by the competent authority against sanctioned vacancies. He further submits that the remuneration of the petitioners have been paid at the daily wage rates in form of vouchers/cash as fixed by the District Level Committee. The posts claimed by the petitioners are not part of the approved cadre of the District SC Societies. Even the post of the Night Watchman is concerned, the petitioners herein do not fulfill the eligibility requirements for regularisation under the statutory scheme. Under Act 2 of 1994 and G.O.Ms.NO.212 dated 22.04.1994 read with G.O.Ms.No.231 dated 16.10.1998, the regularisation was permitted only as a one-time measure for the incumbents who completed a minimum of five years of service and continuing in service as on the cut-off date i.e., 25.11.1993. But, whereas the petitioners herein are all engaged much later i.e., in the years 1997, 2005, 2007, 2011 and 2013.

6. Learned Standing Counsel further submits that this Court passed an interim order dated 15.11.2022 directing the respondents herein to continue the petitioners in service by paying minimum time scale attached to the post pending disposal of the Writ Petition. The respondents complied with the interim orders of this Court in respect of continuation of the petitioners as NMRs. As far as the benefit of minimum time scale is concerned, the petitioners are not eligible for the said benefit. The statutory scheme leaves no scope for extending such benefit to persons engaged on daily wage/NMR basis after the cut-off date of 25.11.1993.

7. Learned Standing Counsel further submits that coming to the regularisation aspect, the recruitment to the sanctioned cadre posts has to be made only through competent authority by duly following norms and prescribed procedure. The petitioners herein have not been appointed through such process, as such they cannot seek for absorption or regularisation. Therefore, the writ petition is liable to be dismissed.

8. Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondents. Perused the material placed on record.

9. The ratio laid down by the Hon'ble Apex Court in **State of Karnataka v. Umadevi(3)**¹, is extracted hereunder:

“44. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in State of Mysore Vs. S.V.Narayanappa, R.N.Nanjundappa Vs. T.Thimmaiah and B.N.Nagarajan Vs. State of Karnataka and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed.”

¹(2006) 4 SCC 1

10. The Division Bench of the composite High Court of Andhra Pradesh at Hyderabad in ***U.V.S.R. Prasad Vs. State of Andhra Pradesh, rep. by its Prl. Secretary, Municipal Administration & Urban Development***², dealt with the aspect of regularisation of the services of the employees and observed and held as under:

“12. In State of Karnataka vs. M.L.Kesari (3 supra), a two-Judge Bench of the Supreme Court has explained the true purport of the directions contained in Para 53 of the judgment in Uma Devi (1 supra) in the below reproduced part of the judgment:

“6. The term ‘one-time measure’ has to be understood in its proper perspective. This would normally mean that after the decision in Umadevi, each department or each instrumentality should undertake a one-time exercise and prepare a list of all casual, daily-wage or ad hoc employees who have been working for more than ten years without the intervention of courts and tribunals and subject them to a process verification as to whether they are working against vacant posts and possess the requisite qualification for the post and if so, regularize their services.

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²W.P.No.27217 of 2017 dated 19.09.2017

8. The object behind the said direction in para 53 of Umadevi is two- fold. First is to ensure that those who have put in more than ten years of continuous service without the protection of any interim orders of courts or tribunals, before the date of decision in Umadevi was rendered, are considered for regularization in view of their long service. Second is to ensure that the departments/instrumentalities do not perpetuate the practice of employing persons on daily-wage/ad-hoc/casual for long periods and then periodically regularize them on the ground that they have served for more than ten years, thereby defeating the constitutional or statutory provisions relating to recruitment and appointment. The true effect of the direction is that all persons who have worked for more than ten years as on 10.4.2006 (the date of decision in Umadevi) without the protection of any interim order of any court or tribunal, in vacant posts, possessing the requisite qualification, are entitled to be considered for regularization. The fact that the employer has not undertaken such exercise of regularization within six months of the decision in Umadevi or that such exercise was undertaken only in regard to a limited few, will not disentitle such employees, the right to be considered for regularization in terms of the above directions in Umadevi as a one-time measure.” (Emphasis is ours)”

13. If we consider the judgment in Uma Devi (1supra) as clarified in M.L.Kesari (3 supra) in juxtaposition to Act 2 of 1994 along with its amendments and the judgment in A.Manjulabhashini (2supra), the following position emerges. Act 2 of 1994 prohibits regularisation and regulates recruitments in public employment. However, in order to consider the claims for regularisation of the employees as one time measure, the State Government has issued G.O.Ms.No.212 dated 22-04-1994, wherein it has decided that the services of the persons, who have completed a continuous and minimum period of 5 years of service on or before 25-11-1993 and been continuing as on that date, shall be regularised in substantive vacancies, if they satisfy conditions 1 to 6 stipulated therein. Several orders of the Courts were made placing different interpretations on G.O.Ms.212, dated 22-04-1994, mainly with respect to the requirement of completion of five years of service. In order to allay the confusion, Section 7 of the Principal Act was amended by 1998 amendment Act by insertion of the proviso, which reads as under:

“Provided that the services of a person, who worked on daily wage/NMR/ Consolidated pay/Contingent worker on full time basis continuously for a minimum period of five years and is continuing as such on the date of the commencement of the Act shall be regularised in accordance

with the scheme formulated in G.O.Ms. No.212, Finance & Planning (FW.PC. III) Department,dated the 22nd April, 1994.”

14. While some orders were passed holding that a person is entitled to regularisation even if he has not completed five years of service as on 25-11-1993, such orders were reversed by a Division Bench of this Court, which was confirmed by a two-Judge Bench of the Supreme Court in A.Manjula Bhashini (2 supra), holding that in order to be entitled for regularisation, a person must have completed 5 years of continuous service as on 25-11-1993.

15. Concededly, the Supreme Court in A.Manjula Bhashini (2 supra) has not referred to the judgment in Uma Devi (1 supra). Thus, in our opinion, the directions given in Para 53 of the judgment in Uma Devi (1 supra) and the provisions of Act 2 of 1994 along with its amendments and the judgment in A.Manjula Bhashini (2 supra) operate in different situations.

16. It is trite that the law declared by the Supreme Court is binding throughout the country under Article 141 of the Constitution of India. It is noteworthy that by the time the judgment in Uma Devi (1 supra) was rendered, the provisions of Act 2 of 1994 and G.O.Ms.No. 212, dated 22-04-1994, were in existence. The Supreme Court, while denouncing the practice of regularization and absorption of persons, who entered service

through backdoors by giving a go-bye to the due procedure prescribed for appointments to public posts, consciously ordered for one time absorption/ of those, who were working for a period of not less than 10 years. It has given directions in this regard to all the State Governments and also Union of India. The Supreme Court is presumed to be conscious of various State enactments such as Act 2 of 1994 and executive orders such as G.O.Ms.No. 212, dated 22-04-1994, while giving directions in Para No. 53 of the judgment in Uma Devi (1 supra). But still, it has not made any exception in favour of the States where State enactments banning regularization/absorption exist. Therefore, Act 2 of 1994 and G.O.Ms.No. 212, dated 22.04.1994, do not whittle down the width and the judgment in Manjula Bashini (2 supra) does not lower the trajectory of the directions issued by the Supreme Court in Para 53 of its judgment in Uma Devi (1 supra). It is, therefore, not permissible for the respondents to take shelter under Act 2 of 1994 and G.O.Ms.No.212, dated 22-04-1994, to deny regularization to the petitioners, who have, admittedly, satisfied the criteria laid down in Para No. 53 of the judgment in Uma Devi (1 supra)."

11. It is observed that the selection/recruitment of the petitioners is not illegal and they are duly qualified to hold the posts on regular basis. More so, the services of the petitioners are continued till 2022 in view of work load, but not on the basis of any

order and judgment by any court of law. Hence, the petitioners herein complied with the parameters as observed by the constitutional bench in Uma Devi (1 supra). Therefore, they also entitled for regularisation of their services as per the judgment rendered by the Hon'ble Apex Court in **Umadevi** case as referred supra.

12. The Hon'ble Apex Court in **Dharam Singh and Others Vs. State of U.P. and Another**³, held as follows:

“17. Before concluding, we think it necessary to recall that the State (here referring to both the Union and the State governments) is not a mere market participant but a constitutional employer. It cannot balance budgets on the backs of those who perform the most basic and recurring public functions. Where work recurs day after day and year after year, the establishment must reflect that reality in its sanctioned strength and engagement practices. The long-term extraction of regular labour under temporary labels corrodes confidence in public administration and offends the promise of equal protection. Financial stringency certainly has a place in public policy, but it is not a talisman that overrides fairness, reason and the duty to organise work on lawful lines.

18. Moreover, it must necessarily be noted that “ad-hocism” thrives where administration is opaque. The

³ 2025 SCC OnLine SC 1735

State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious engagement over sanctioned posts where the work is perennial. If “constraint” is invoked, the record should show what alternatives were considered, why similarly placed workers were treated differently, and how the chosen course aligns with Articles 14, 16 and 21 of the Constitution of India. Sensitivity to the human consequences of prolonged insecurity is not sentimentality. It is a constitutional discipline that should inform every decision affecting those who keep public offices running.

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20. We have framed these directions comprehensively because, case after case, orders of this Court in such matters have been met with fresh technicalities, rolling “reconsiderations,” and administrative drift which further prolongs the insecurity for those who have already laboured for years on daily wages. Therefore, we have learned that Justice in such cases cannot rest on simpliciter directions, but it demands imposition of clear duties, fixed timelines, and verifiable compliance. As a constitutional employer, the State is held to a higher standard and therefore it must organise its perennial workers on a sanctioned footing, create a budget for lawful engagement, and implement judicial directions in letter and spirit. Delay to follow these obligations is

not mere negligence but rather it is a conscious method of denial that erodes livelihoods and dignity for these workers. The operative scheme we have set here comprising of creation of supernumerary posts, full regularization, subsequent financial benefits, and a sworn affidavit of compliance, is therefore a pathway designed to convert rights into outcomes and to reaffirm that fairness in engagement and transparency in administration are not matters of grace, but obligations under Articles 14, 16 and 21 of the Constitution of India.”

13. From the above analysis, this Court drawn the factual conclusions that the petitioners were appointed by the respondent authorities in duly sanctioned posts and without the benefit or protection of any interim orders of any court or tribunal they rendered/continued their service for a period of more than ten years, as such, it cannot be said that they are not eligible for regularisation as per the ratio laid down by the Apex Court in **Umadevi** case as well as this Court in **U.V.S.R.Prasad** case referred above. Therefore, the petitioners are entitled for regularisation of their services along with consequential benefits as entitled.

14. In view of the aforesaid reasons, the Writ Petition is allowed with a direction to the respondents to consider the cases of the petitioners for regularisation of their services against the existing vacancies and appoint them having satisfied with the criteria laid

down in para No.53 of the judgment in Umadevi case. This process must be completed within a period of six months from the date of receipt of a copy of this order. No order as to costs.

As a sequel miscellaneous application, pending, if any, shall also stand closed.

VENKATESWARLU NIMMAGADDA, J

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