

CASE NO.:
Appeal (civil) 96 of 2007

PETITIONER:
Accounts Officer (A&I) APSRTC & Ors

RESPONDENT:
K. V. Ramana & Ors

DATE OF JUDGMENT: 08/01/2007

BENCH:
S. B. SINHA & MARKANDEY KATJU

JUDGMENT:
J U D G M E N T

(Arising out of Special Leave Petition (Civil) No.9098 of /2004)
[with CA Nos. 97/2007 @ SLP(Civil) No.10348/2004]

MARKANDEY KATJU, J.

Leave granted.

These appeals have been filed against the impugned judgment of the Andhra Pradesh High Court dated 30.4.2003 in Writ Appeal No.629 of 2003 and Writ Appeal No.584 of 2003. For the sake of convenience we will deal with the facts of Civil Appeal arising out of SLP(C) No.9098/2004. Heard learned counsel for the parties and perused the record.

The facts of the case are that the respondents 1 and 2 in this appeal were appointed by the Andhra Pradesh State Road Transport Corporation (hereinafter referred to as "the corporation") as contract sweeper and attender on 1.5.1992 and respondent no.3 was appointed as such on 1.8.1992. They submitted representations to appellant no.1 and 2 for regularization of their services claiming that they have completed 240 days of continuous service without any break but since 10.5.1998 the appellants were not giving them work. Hence the respondents filed a writ petition being Writ Petition No.10678 of 1996 which was disposed of by the High Court on 17.10.1997 directing the corporation to consider the case of these employees for regularization of service.

By order dated 31.3.1998 the representation of the writ petitioners was rejected on the ground that their regularization can only be considered when they are recruited through the prescribed Departmental Selection Committee and after undergoing a selection process. Since, they were not selected and appointed in accordance with the aforesaid procedure, their case for regularization could not be considered. Aggrieved the respondents (writ petitioners) filed a writ appeal no.6948 of 1999 which was allowed by a learned Single Judge of the High Court.

In the counter affidavit filed by the Corporation in the writ petition it was stated that the petitioners were entrusted the work of the attender/sweeper on casual basis on a consolidated pay, drawn through a pay order on certification of the work every month, but they were not issued any appointment order. It was also submitted that as per the circular of the Corporation dated 1.5.1996 there was no provision to engage anyone on contract basis or on consolidated pay. The writ petitioner had not undergone the Departmental Selection process and as such they were not entitled for regularization.

Learned counsel for the writ petitioners (the respondents in this appeal) relied on the circular of the Corporation dated 26.10.1988 wherein guidelines were issued to engage the existing contract labour, such as cleaners including piecemeal rated labour against the sanctioned vacancies. In view of this circular, it was contended that the writ petitioners were entitled for regularization.

The learned Single Judge allowed the writ petition and directed regularization of the writ petitioners within six weeks. Aggrieved the Corporation filed an appeal before the Division Bench of the High Court which was rejected by the impugned judgment. Hence, these appeals by special leave.

In our opinion these appeals have to be allowed. It has been held by a Constitution Bench of this Court in Secretary, State of Karnataka & Ors. vs. Uma Devi (3) & Ors., 2006(4) SCC1 that absorption, regularization or permanent continuance of temporary, contractual, casual, daily-wage or ad hoc employees dehors the rules and constitutional scheme of public employment cannot be granted by the Courts. As regards the circular dated 31.3.1998 the same cannot override Article 16 of the Constitution, and hence regularization cannot be granted under the said circular. Even if the contract labourers or casual workers or ad hoc employees have worked for a long period they cannot be regularized dehors the rules for selection, as has been held in Uma Devi's case (supra).

Hence following the decision of the Constitution Bench of this Court in Uma Devi's case (supra), these appeals are allowed and the impugned judgment of the Division Bench and of the learned Single Judge are set aside, and the writ petitions are dismissed.