

(2001) 04 AP CK 0048

In the Andhra Pradesh High Court

Case No : WA No's. 522 and 525 of 2001

A.P. Industrial Infrastructure Corporation Limited, Hyderabad
and another

APPELLANT

Vs

B.V. Ramana and another

RESPONDENT

Date of Decision : 28-04-2001

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2001) 4 ALD 194

Hon'ble Judges : S.B. Sinha, C.J.;V.V.S. Rao, J

Bench : Division Bench

Advocate : Mr. Harender Pershad, for the Appellant; Mr. S. Lakshma Reddy and Government Pleader, for Industries and Commerce, for the Respondent

Judgement

S.B. Sinha, C.J.—The first appellant herein is a public sector undertaking. The first respondent in these appeals were appointed on ad hoc basis at the construction site of the first appellant having regard to the nature of construction work with different undertakings in different parts of the State. Admittedly, the ad hoc employees are not appointed following the recruitment rules and upon compliance with the provisions contained in Article 14 of the Constitution as therefore neither the vacancies are notified to the employment exchange nor any recruitment notification is made. The first respondents herein were engaged as casual labour from 1-12-1988 till 30-4-1989 when the first appellant undertook construction of Navodaya Vidyalaya building at Krishnapuram and as the construction was completed on 30-9-2000 they were disengaged.

2. The learned single Judge, having regard to the decision of the Supreme Court in Dist. Collector/Chairman and Others Vs. M.L. Singh and Others , allowed the writ petitions directing:

The writ petition is accordingly allowed and a writ of mandamus shall be issued to the respondents to regularise the services of the petitioners from the date on which they have completed 5 years of service as held by the Supreme Court

(supra). The petitioners are entitled to count their services for the purpose of their seniority and other attendant benefits like terminal and pensionary benefits that are being enjoyed by the regular employees. Keeping in view the precarious financial position of the State Government, the respondents are directed to give the time scales of pay to the petitioners from 1-1-2001. They shall pass orders within 8 weeks from the date of receipt of a copy of this order.

3. The decision of the Apex Court in District Collector's case reads thus:

We have heard the learned Counsel for the parties. These matters relate to regularisation and payment of wages to the respondents who were employed on daily wage basis. By the impugned judgment the Division Bench of the High Court, while affirming with modification the order passed by the learned single Judge has directed that all employees who have completed five years of continuous service should be considered for regularisation in accordance with the terms of G.O. Ms. No.212, dated April 22, 1994 and that they should be paid their wages at par with the wages paid to the permanent employees of that category. As regards payment of wages there is no dispute between the parties that the same have to be paid from the date of regularisation. Insofar as regularisation is concerned, we are of the view that the High Court has rightly directed that on the basis of the Notification G.O. Ms. No.212, the respondent employees shall be regularised with effect from the date or dates, they completed five years' continuous service. It is, however, made clear that the other conditions laid down in the said G.O. Ms. No.212 will have to be satisfied for the purpose of regularisation. The special leave petitions are disposed of accordingly.

4. It is, therefore, evident that a direction in terms of G.O. Ms. No.212 would be issued only if the conditions therefore are fulfilled.

5. The order of the learned single Judge does not show that the first respondents fulfil the said conditions. Having regard to the stand taken by the first appellant that its construction work was over and evidently there does not exist any clear vacancy, the question of invoking G.O. Ms. No.212 in the instant case does not arise. Accordingly the order of the learned single Judge is set aside and the writ appeals are allowed. No costs.