
(2014) 04 KAR CK 0066
In the Karnataka High Court
Case No : Writ Petition No. 54284 of 2013

C.G. Jagadeesh

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 23-04-2014

Acts Referred:

Citation : (2015) 1 AKR 74 : (2014) 5 KarLJ 179

Hon'ble Judges : Ravi V. Malimath, J;K.L. Manjunath, J

Bench : Division Bench

Advocate : V. Lakshminarayana, Advocate for the Appellant; S. Susheela, Additional Government Advocate, Advocate for the Respondent

Judgement

Ravi V. Malimath, J.—It is the case of the petitioner that he was initially appointed as a typist on 3-11-1987 on contract basis for a period of three months. He was posted in the office of the third respondent. His appointment was continued from time to time. He was continued in the said post for more than 20 years. Subsequently, by the impugned orders issued by the respondents-authorities, his services were terminated and in his place the fourth respondent was appointed. Challenging the same, the petitioner filed the instant application before the Tribunal, wherein the Tribunal allowed the application, directing the respondents to examine the case of the petitioner for continuing his services till he attains the age of superannuation of 60 years, as mandated in Section 3(1) of the Karnataka Daily Wage Employees Welfare Act, 2012, within a period of three months from the date of receipt of a copy of the order. Being not satisfied by the order passed by the Tribunal, the petitioner-applicant has filed this writ petition. Learned Counsel for the petitioner submits that the impugned order is erroneous and liable to be quashed. That the Tribunal failed to consider the case of the petitioner in the light of the judgment of the Supreme Court in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, . He contends that the petitioner having worked for the past three decades, the Tribunal having not considered the same and has passed the impugned order. He relies upon

various orders passed by the Supreme Court as well as this Court, on the ground that the persons therein were in employment for more than two decades and their services were ordered to be regularised.

2. On the other hand, learned Counsel for the respondents defends the impugned order.

3. On hearing learned Counsels, we are of the considered view that appropriate relief requires to be granted. The Tribunal while considering the plea of the petitioner was of the view that even though no direction was to be given to regularise the services of the petitioner, in view of the fact that he worked since from 1987, the respondents-authorities were directed to continue the services of the petitioner till he attains the age of superannuation of 60 years.

4. In identical circumstances, this Court in the judgment dated 19-11-2003 passed in W.P. Nos. 46905 to 47238 of 2003 had directed regularisation of the petitioners therein. Aggrieved by the same, the State of Karnataka filed Special Leave Petitions in SLP (Civil) No. 13724 of 2006. By the order dated 16-4-2013, on hearing both Counsels, the SLP was dismissed on the ground that the respondents therein were in continuous service for 25 to 28 years. The operative portion of the order reads as follows:

"In the facts and circumstances of the case, particularly having regard to the fact that the respondents have been in continuous service for 25-28 years, we are not inclined to interfere in the matter.

The SLP is, accordingly, dismissed."

Similarly, in a recent judgment of the Hon"ble Supreme Court dated 7-3-2014 passed in Civil Appeal No. 3338 of 2014, the Hon"ble Supreme Court held at paras 8 and 9 as follows:

"8.... In the aforesaid undisputed facts it is wholly unnecessary for us to consider as to whether the cases of persons who were awaiting regularization on the date of the decision in Umadevi's case is required to be dealt with in accordance with the conditions stipulated in para 53 of Umadevi's case inasmuch as the claims of the respondent-employees can well be decided on principles of parity. Similarly placed employees having been regularised by the State and in case of some of them such regularisation being after the decision in Umadevi's case we are of the view that the stand taken by the appellants in refusing regularisation to the respondents cannot be countenanced. However, as the said stand of the appellants stem from their perception and understanding of the decision in Umadevi's case we do not hold them liable for contempt but make it clear that the appellants and all the other Competent Authorities of the State will now be obliged and duty-bound to regularise the services of the respondents (74 in number) which will now be done forthwith and in any case within a period of two months from the date of receipt of this order.

9. The appeal shall stand disposed of in the above terms."

5. Therefore, it is clear in the latter judgment of the Hon"ble Supreme Court, on the ground of parity the reliefs were extended to the employees therein. It is seen that in the aforementioned cases, the services of employees were directed to be regularised. Under these circumstances, we are of the considered view that the Tribunal fell short of directing the respondents-authorities to regularise the services of the petitioner, in view of the fact that he is in service ever since 3-11-1987 without any break. The facts and circumstances involved in this case are similar to the aforesaid judgments of the Hon"ble Supreme Court. In the circumstances and in the light of the orders passed by the Supreme Court cited *supra*, the order of the Tribunal is hereby modified by directing the respondents-authorities to regularise the services of the petitioner and pass necessary orders within a period of three months from the date of receipt of a copy of this order.