

**(2005) 02 KAR CK 0030**

**In the Karnataka High Court**

**Case No :** Writ Petition No"s. 522-529 of 2003, 25058-25060 and 30193 of 2004 and etc.

M. Ramakrishnaiah and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

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**Date of Decision :** 07-02-2005

**Acts Referred:**

**Citation :** (2005) ILR (Kar) 2322 : (2005) 4 KarLJ 229 : (2005) 2 KCCR 96 SN

**Hon'ble Judges :** K. Sreedhar Rao, J

**Bench :** Single Bench

**Advocate :** V. Lakshminarayana, N.B. Patil, Ranganatha S. Jois, M.V. Hoskoti, Mallikarjuna S. Adagal, K. Govindaraj and M. Sampath Kumar and Shivayogimath Associate, for the Appellant; Rosa Paramel, HCGP for R1-7, B.G. Sridharan, for R3, Ashok R. Kalyan Shetty, for R2, 4 and 5, Sampath Anand Shetty, for R2 and G.R. Ramachandrappa and M.A. Vijay for R2, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Sreedhar Rao, J.—The Petitioners in WP Nos. 522-529/03 are employed as daily wage workers in different APMC's under the jurisdiction of the second Respondent.

2. The petitioners in WP Nos. 25058-60/04 and other batch of cases are employed as daily wage workers in different departments coming under the jurisdiction of the Zilla Panchayath.

3. The petitioners in WP Nos. 12643-12645/03 are working as daily wage workers under the second Respondent-Khadhi Industries Board in the said writ petitions.

4. All the petitioners contend that they are entitled to the relief of regularisation vide the Government Order bearing No. GRAHAPA 75 GPAHA 2001, BANGALORE dated 19.7.02 at Annexure T. This Court in WP Nos. 33541/98 and other batch of cases by the judgment dated 10.9.99 vide Annexure "D" allowed the writ

petition by giving a direction "to consider the case of regularisation of the petitioners, who are working against the sanctioned post on the condition that they have served for a period of 10 years continuously in the light of the directions given by the Supreme Court in The Dharwad Distt. P.W.D. Literate Daily Wages Employees Association and others, etc. Vs. State of Karnataka and others etc., is to be given effect to, and the regularisation to be made by applying the guidelines laid therein. In the alternative, it was directed that the Government to frame service rule regarding recruitment and to fix the necessary cadres strength. Thereafter, as against the sanctioned posts after scrutiny of the cases of the petitioners they have to be regularised and framing of necessary service rules was directed to be made within the period of one year from the date of the order, failing which, the regularisation should be made as per the guidelines laid down by the Supreme Court in DHARWAD DISTRICT, P.W.D. L.D.W. ASSOCIATION v. STATE OF KARNATAKA. (Supra).

5. The Division Bench of this Court in WA Nos. 2765-2905/00 by judgment dated 23.1.01 at Annexure "F" confirmed the judgment of the single judge. The Supreme Court dismissed the Civil (C.C.) No. 7855-7995/01 on 5.11.2001 preferred against the order in writ appeal.

6. The Government consequent to dismissal of its plea by the Supreme Court formulated a scheme vide No. GRAHAPA 75 GPAHA 2001, BANGALORE dated 19.7.02 at Annexure "T" to give effect to the directions given in the judgment at Annexure "D" for absorbing the petitioners, who have been granted the relief of regularisation. The scheme lays down the terms and conditions for regularisation.

7. It is the contention of the petitioners that they are all similarly placed like the petitioners in WP Nos. 33541/98 and other batch of cases, where the petitioners have been given the benefit of regularisation by the Government Order at Annexure "T". The petitioners contend that they have also completed continuous service of 10 years by 10.9.99, subsequent to the order at Government Order at Annexure T and seek regularisation as envisaged in Annexure "T".

8. The contention of the Learned HCGP that the benefit of Annexure "T" is confined only to 49 petitioners in WP Nos. 33541/98 and other batch of cases and that the Petitioners herein are not entitled to the relief vide Annexure "T" is untenable. Merely because the petitioners have belatedly approached the Court shall not be a ground to deny to the petitioners, the relief, who fulfill the conditions and qualifications for regularisation as per Annexure "D" and as per Annexure "T".

9. The Learned HCGP submitted that aggrieved by the directions issued by this Court in WP No. 3813/04 for regularisation, the State has filed SLP before the Supreme Court pending in Civil (C.C.) Nos. 6354-57/04. Therefore, argued that the claim of the petitioners shall be subject to the result of the proceedings before the Supreme Court. This contention is untenable since the petitioners in the instant cases are not seeking regularisation on the basis of directions of the

Court, but, their claim is based on the policy formulated by the Government for regularisation as envisaged by Government Order at Annexure "T" dated 19.7.2002. The effect of the order is not merely confined to the petitioners, who have taken benefit of the judicial order. But, it hands out evenly the benefit to similarly placed persons working in other departments, which is evident from the operative portion of the order, which reads thus:-

"the benefit of regularisation is extended to the daily wage workers, working in the Zilla Panchayath of Bangalore Rural and Kolar District and other Departments".

The Annexure "T" virtually spells out a governmental policy laying down the conditions for regularisation of daily wage employees.

Thus, the petitioners, who are also similarly placed, seek an equal treatment at the hands of law.

10. It is incumbent on the respondents to consider the cases of the petitioners in the light of the guidelines given by the Government Order vide Annexure "T" and to give them the benefit of regularisation, if they fulfill the conditions laid down in the Government Order at Annexure T. Further, the authorities concerned while considering the case of regularisation shall give opportunity to each of the petitioners to represent their case and to produce necessary credentials to substantiate their claim. It is needless to say that the Government Order at Annexure "T" makes it clear that when there are no sanctioned posts vacant, supernumerary posts have to be created and the eligible petitioners have to be accommodated according to the directions issued by the Supreme Court.

11. Sri Sampat Anand Shetty, Learned Counsel appearing for the Respondent No. 2 in WP Nos. 12643-645/2003 submitted that the direction for regularisation granted by this Court in WP No. 33982/ 01 and batch of cases dated 12.8.01. SLP is filed before the Supreme Court pending in C.C. 3695-3611/04. Therefore, argued that the claim for regularisation of the petitioners shall be subject to the result of the orders to be passed by the Supreme Court.

12. I find the argument of the Learned Counsel Sri Sampat Anand Shetty is untenable. This Court is not directing regularisation on the basis of the orders made by this Court or the Supreme Court in the earlier proceedings. The Government has made it a policy vide Annexure "T" to give effect to regularisation. Therefore, the benefits of the policy have to be extended to all the persons, who are similarly placed without discrimination.

13. In that view of the matter, it is directed that the petitioners in writ petitions should be entitled to the benefit of regularisation, if they fulfill the conditions vide Government Order at Annexure T. Accordingly, writ petitions are disposed of as indicated above. The concerned authorities shall consider the cases of regularisation and pass appropriate orders within six months from the date of this order.

The Learned HCGP is permitted to file her memo of appearance within four weeks from the date of this order.