

(2022) 11 TEL CK 0088
In the Telangana High Court
Case No : Writ Petition No. 5049 Of 2021

V.Jagan Mohan Reddy

APPELLANT

Vs

State Of Telangana And Another

RESPONDENT

Date of Decision : 24-11-2022

Acts Referred:

Citation : (2022) 11 TEL CK 0088

Hon'ble Judges : N.V. Shravan Kumar, J

Bench : Single Bench

Advocate : B Mahender Reddy

Final Decision : Disposed Of

Judgement

1. This writ petition has been filed seeking a writ of mandamus declaring the order of the respondent No.1 vide G.O.Rt.No.89 Housing (VC) Department dated 28.06.2018 and proceedings of the respondent No.2 vide Proceedings No.A3/5197/2012-4, dated 28.06.2018 to the limited extent of regularising the services of the petitioner with effect from 28.06.2018, instead of with effect from 26.08.2002 the date of completion of ten years of service from initial appointment or from 08.05.2006 the date from which similar employees are regularised under G.O.Ms.No.138, Housing (U&IAY) dated 08.05.2006, as arbitrary and illegal and consequently to regularise the petitioner services with effect from 26.08.2002 or 08.05.2006 with all consequential benefits.

2. It is the case of the petitioner that he was appointed as Non-Technical Work Inspector on daily wage basis in the 2nd respondent's Corporation vide proceedings dated 15.08.1992 and posted to work at its Nirmana Kendra Units. When the 1st respondent established another State Instrumentality, sister concern of respondent No.2, by name HABTECH, Hyderabad in the year 1998, the petitioner, along with other staff working in Nirmana Kendras, were deputed to work under HABTECH and fixed their emoluments on par with the employees of APSHCL. It is submitted that as per the policy of the Government vide letters

dated 29.06.1999 and 14.07.1999, with effect from 01.09.1998 or from the date of completion of five years of service, who are working in sanctioned posts and drawing the minimum emoluments attached to the post held by them, the Government had regularised the services of 305 Technical/Non-Technical Work Inspectors working in the 2nd respondent's Corporation vide G.O. Ms. No.138, dated 08.05.2006. Though the petitioner is fully qualified and eligible for regularisation along with those 305 employees, the petitioner's services were not considered on the sole ground that the petitioner is not working in the respondent No.2 Corporation, but working in its sister concern HABTECH. Subsequently, the 2nd respondent submitted the proposals to the 1st respondent to permit the 2nd respondent Corporation to absorb the services of the employees working in Nirmithi Kendras in different categories including the petitioner, vide letter dated 31.07.2008, but no action has been taken thereon by the 1st respondent.

3. While the matter stood thus, in view of the State bifurcation, it was resolved to absorb the HABTECH into APSHCL duly transferring all the field functionaries and its ministerial staff and consequently the petitioner was directed to maintain the record room vide its office order dated 09.05.2014. The 2nd respondent, after conducting detailed verification of the records, found that 20 NMR employees, including the petitioner, were found to be eligible for regularisation as they were working against the sanctioned post and are appointed before 1993 and recommended for their regularisation in terms of G.O. Rt.No.138, dated 08.05.2006 to the 1st respondent. Pursuant to the said recommendation, the 1st respondent had issued G.O. Rt.No.89 dated 28.06.2018 regularising the said 20 NMR employees with effect from the date of issue of the order i.e. 28.06.2018 and consequently, the 2nd respondent also issued proceedings dated 28.06.2018. Questioning the date of regularising the petitioner from 28.06.2018 instead of 08.05.2006, the date from which similarly situated employees were regularised under the G.O. Rt. No.138, dated 08.05.2006, petitioner filed the present writ petition.

4. On the other hand, on behalf of the 2nd respondent, while denying the averments of the petitioner, counter affidavit has been filed, inter alia, stating that the petitioner was appointed as Non-Technical Work Inspector on daily wages by Managing Director, APSHCL/A.P. State Nirmithi Kendra vide Proceedings dated 15.08.1991 and he reported to duty as such on 26.08.1992. Since the petitioner did not complete the five years of service by 25.11.1993 and was also working in non sanctioned post, his services were not entitled to be regularised under G.O. Ms. No.212 dated 22.04.1994 and more so, the staff pattern for the employees working in Nirmithi Kendra was sanctioned only in the year 1998 and till such time, they have been working temporarily on ad hoc basis. Subsequently, all the district level and the State level Nirmithi Kendra Units were registered under the Societies Act and formed as "HABTAT TECHNOLOGY" in the combined State and it is an independent organisation. Consequently on the formation of HABTECH, the services of the petitioner were brought under the

HABTECH and his service matters were controlled by the Director, HABITAT Technology and not by the A.P. State Housing Corporation Limited. Since the 1st respondent had sanctioned the payment of minimum emoluments vide Secretary, HABTECH proceedings dated 26.03.1998, the petitioner was allowed to draw the minimum emoluments with effect from 01.01.1998 vide proceedings dated 26.03.1998 of the Secretary, HABTECH. By virtue of merger of HABTECH in APSHCL, the services of the petitioner were absorbed as NMR Non-Technical Work Inspector in the year 2014 only.

5. It is further submitted that as per the Government policy to regularise the NMR employees and the orders of the 1st respondent, the 2nd respondent's Corporation had regularised the services of the petitioner's category, those who have already completed a total length of five years of service by 13.11.1991 in the Corporation in terms of the G.O. Ms. No.182, dated 13.11.1991, and who have also completed the five years of service and continuing in the Corporation in terms of the G.O. Ms. No.212, dated 22.04.1994. Further, the Corporation had also regularised the services of 305 employees of petitioner's cadre, who were appointed in between 1989 and 1993 in sanctioned posts and are drawing the minimum emoluments attached to the post in terms of G.O. Rt. No.138, dated 08.05.2006 with prospective effect. In view of the above, the petitioner cannot claim regularisation from the respective date of completion of five/ten years or with effect from 08.05.2006 for which period, the petitioner was not working in the respondent's Corporation.

6. The learned counsel for the petitioner, while reiterating the writ averments, inter alia, submitted that the petitioner was appointed as Non-Technical Work Inspector on daily wage in the 2nd respondent's Corporation vide Proceedings dated 15.08.1992 and joined the duty on 28.08.1992. The petitioner was granted consolidated salary on minimum pay scale from 01.01.1998 and minimum pay scale with all benefits except annual grade increments from 01.04.1999 and he completed five years of service as on 28.08.1997 and eligible for regularisation under G.O.Ms. No.212, dated 22.04.1994 or entitled for regularisation from completion of ten years of continuous service i.e. with effect from 28.08.2002 as per the law declared by the Hon'ble Supreme Court in the case of Secretary, State of Karnataka Vs. Umadevi and others (2006) 4 SCC 1. It is also submitted that even otherwise the petitioner is entitled for regularisation with effect from 08.05.2006, the date from which similarly situated employees were regularised under G.O. Rt. No.138, dated 08.05.2006. Eventually, the learned counsel prayed to pass appropriate orders.

7. Per contra, the learned Government Pleader/Standing Counsel appearing for the respondents, while reiterating the counter averments, inter alia, vehemently submitted that the petitioner is not entitled for regularisation as sought for either in terms of the G.O. Ms. No.212, dated 22.04.1994 or in terms of the G.O. Ms. No.182, dated 13.11.1991 or even from as on the date of regularisation made other 305 employees as per the G.O. Ms. No.138, dated 08.05.2006 since the

petitioner did not come within the purview of the said Government orders. He further submitted that the petitioner's services were regularised along with other 20 similarly situated employees with prospective effect vide G.O. Rt. No.89, dated 28.06.2018 as per the scheme that was evolved in terms of G.O. Rt. No.138, dated 8.05.2006. Eventually, he sought to dismiss the writ petition.

8. Heard the learned counsel appearing for the petitioner and the learned Government Pleader/Standing Counsel appearing for the respondents and perused the material made available on the record.

9. As could be seen from the counter, admittedly it is stated that the representation dated 21.08.2020 of the petitioner is pending with the 1st respondent, orders are awaited and that he is competent authority to pass appropriate orders on the aspect of regularisation of the petitioner and the only issue for consideration before the 1st respondent is with regard to the date of regularisation of the petitioner. At this stage, this Court feels that it would be proper to direct the 1st respondent to pass appropriate orders in terms of the law laid down by the Hon'ble Supreme Court in the case of one supra.

10. Having regard to the facts and circumstances of the case and the submissions made by the learned counsel on either side, without going into the merits of the case, this writ petition is disposed of directing the 1st respondent to pass appropriate orders on the representation dated 21.08.2020 of the petitioner in terms of the law laid down by the Hon'ble Supreme Court in the case of one supra within a period of three (03) months from the date of receipt of a copy of this order.

11. Accordingly, this writ petition is disposed of. There shall be no order as to costs.

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