

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.20155 of 2011

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21.07.2015

Between:

Singamsetty Srinivasulu

...Petitioner

And

The District Collector, Kadapa and another

...Respondents

Counsel for the petitioner: Mr.D.Raghava Reddy

Counsel for the respondents: Assistant Government
Pleader

for Social Welfare (AP)

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The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to declare the action of the respondents in not considering the petitioner's representations for providing him appointment under compassionate appointment scheme in place of his deceased brother as illegal and arbitrary.

I have heard Mr.D.Raghava Reddy, learned counsel for the petitioner, and the learned Assistant Government Pleader for Social Welfare (AP).

The facts, which are not in dispute, are that the petitioner's elder brother, viz., S.Mallikarjuna was initially engaged as Nominal Muster Role (NMR) Typist on 06.05.1993 by respondent No.2 on a consolidated pay at Rs.400/- per month. With effect from 01.12.2002, his daily wage was increased to Rs.126/- per day for 26 days in a month. He died on 14.11.2009 while being continued as daily wage typist. The petitioner, who is also unmarried like his deceased brother, made representations to the respondents for providing him employment in place of his deceased brother. As his representations have not received the attention they allegedly deserve, the petitioner filed this writ petition. In support of his claim for appointment in place of his deceased brother, the petitioner has placed reliance on G.O.Ms.No.612, General Administration (Services. A) Department, dated 30.10.1991.

Respondent No.1 filed a counter-affidavit, wherein he has admitted the fact that the petitioner's brother was initially appointed as NMR Typist in 1993 on a consolidated pay at Rs.400/- per month and subsequently, he was being paid Rs.126/- per day for 26 days in a

month with effect from 01.12.2002. The counter affidavit also admitted the fact that the petitioner's brother expired on 14.11.2009 while in service. Respondent No.1 has, however, pleaded that the petitioner is not entitled to the benefit of compassionate appointment for the reason that his brother was not a permanent employee as his employment was purely temporary and that his claim for regularization, in terms of G.O.Ms.No.212, Finance and Planning (W.P.C.III) Department, dated 22.04.1994, was rejected, *vide* office memo in Rc.No.46/ST/93, dated 20.09.2004.

The Government has been issuing orders from time to time laying down the guidelines for offering employment to the family members of the deceased Government employees dying in harness on compassionate grounds. One such G.O. is G.O.Ms.No.612, dated 30.10.1991. This G.O. used the phraseology "family of a Government employee" for providing compassionate appointment. In ordinary sense, "a Government employee" is one who is appointed to the service of the Government. An NMR or a daily wage labourer cannot be considered as a Government employee. Indeed, the District Tribal Welfare Officer in his office memo, dated 20.09.2004, rejected the claim of the petitioner's brother for regularization. A copy of this memo has been filed along with the counter-affidavit. Operative portion of the said memo reads as under:

"With reference to the representation cited Sri S.Mallikarjuna, NMR Typist is informed that Govt. vide G.O.Ms.No.212 Fin. & Plg. (W.P.C.III) Dept., dated 22.04.1994 issued guidelines for regularization of services of persons appointed on daily wage/NMR or on consolidated pay and who worked continuously for a minimum period of 5 years and were continuing on 25.11.1993 subject to condition that the absorption should be against clear vacancies of posts considered necessary to be continued as per work load. But Sri S.Mallikarjuna has been working as NMR Typist since 06.05.1993 and did not work continuously for a minimum period of 5 years as on 25.11.1993 and there is no clear Typist vacancy in TRICOR.

In view of the above rule position he is informed that his

request cannot be considered for regularization of his services.”

On a careful consideration of the scheme of compassionate appointment as reflected in G.O.Ms.No.612, dated 30.10.1991, and the fact of rejection of the claim of the petitioner’s brother for regularization as Typist, I am of the opinion that the petitioner is not entitled for appointment in place of his deceased brother under compassionate appointment scheme.

For the aforementioned reasons, the Writ Petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.24431 of 2011 filed by the petitioner for fixing an early date of hearing of the writ petition shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

21st July, 2015
GHN