

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.20488 OF 2002

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ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the respondents in rejecting the case of the petitioner vide L.Dis.no.640/2001, dated 02.02.2002, for compassionate appointment, as illegal and arbitrary and violative of G.O.Ms.No.30, dated 01.02.1994 and for a consequential direction to the respondents to consider the case of the petitioner for appointment in any suitable post on compassionate grounds by setting aside the impugned order dated 02.02.2002.

The case of the petitioner is that his father while working as a teacher in R.C.M.Elementary School, Gunapalem, Srikakulam district, died on 28.07.1991, leaving behind his wife, two sons and one daughter. While so, since the petitioner is major, elder son of the family and also passed tenth class, he submitted a representation on 05.09.1991 & 30.01.1992 to the respondents with a request to appoint him on compassionate grounds in any suitable post. But the same was rejected by the 1st respondent by the impugned proceedings dated 02.02.2002 stating that there is no provision for providing employment to the petitioner as per Govt.Memo No.1366/Ser.IV-1/96-8 Education (Ser.IV) Department, dated 04.07.1997 in which the Government has cancelled the orders issued in Memo No.766, dated 18.05.1995 which provides employment to the dependants of the deceased teachers of aided schools. Aggrieved by the same, present writ petition is filed.

The 2nd respondent filed counter admitting that petitioner's father died on 28.07.1991 while working as teacher in R.C.M.A.E.School, Gunapalem, Srikakulam leaving behind his two sons and one daughter. The 2nd respondent denied the contentions of the petitioner that he passed X class by the date of death of his father and made application for compassionate appointment

05.09.1991 & 30.01.1992. It is stated that G.O.Ms.No.30, dated 01.02.1994 was issued for providing compassionate appointment to the dependants of the deceased employees of Aided/Zilla Parishad/Municipal Schools. Since there is no provision for providing employment to the dependants of the deceased at the time of death of petitioner's father and also in view of the fact that the petitioner submitted application for compassionate appointment after a lapse of ten years, the application of the petitioner was rejected. It is also stated that the Government issued Memo No.1366/Ser.IV.1/96-8, dated 04.07.1997, to the effect that there is no provision for providing employment to the dependants of the deceased employees working in aided schools, in any government school/office in the absence of vacancy in the aided school. It is further stated that there are no vacancies available in the school where the father of the petitioner worked to provide employment to the petitioner and that in the absence of clear vacancy in the aided school, the petitioner is not entitled for compassionate appointment, that too after a lapse of ten years and finally it sought for dismissal of the writ petition.

Heard both sides.

In this case, the petitioner's father died in the year 1991. Though petitioner asserted that he made an application in the year 1991 for compassionate appointment, the same was denied by the respondents in the counter stating that the petitioner approached them only after a lapse of ten years from the date of his father's death. It is also stated in the counter that there are no vacancies in the school where the petitioner's father worked at the relevant point of time and as per Memo No. 1366/Ser.IV.1/96-8, dated 04.07.1997, when there is no vacancy, the compassionate appointment cannot be made, though G.O.Ms.No.30, dated 01.02.1994 states that the scheme of compassionate appointment applies to the employees working in the aided schools. More so, the G.O.Ms.No.30, came into effect only in the year 1994 i.e. subsequent to the death of the petitioner's father, and the G.O.Ms.No.30 is not for retrospective effect. The petitioner also did not file any reply affidavit stating that vacancies are available in the 3rd respondent school for making

appointment on compassionate grounds. Further, the petitioner has not produced any material to show that he approached the respondent within reasonable time. Even the proceedings of Lok Adalat show that the petitioner approached the respondents only in the year 2001. In view of the same, I do not see any merit in the writ petition.

Accordingly, the writ petition is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

05.10.2015

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