

THE HON'BLE SRI JUSTICE K.C.BHANU

AND

THE HON'BLE MRS. JUSTICE ANIS

—

WRIT PETITION No.12426 OF 2015

—

ORDER: (per Hon'ble Sri Justice K.C.Bhanu)

This Writ Petition is filed challenging the order dated 05.12.2014 in O.A.No.383 of 2012 with M.A.Nos.2786 of 2014 and 2950 of 2014 and V.M.A.No.354 of 2012 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short, "the Tribunal").

2. The applicant/un-official respondent herein filed the aforementioned Original Application before the Tribunal to declare the action of respondents therein in issuing the impugned order L.Dis.No.6924/2011(A3), dated 13.12.2011 and the orders passed by the third respondent in his Rc.No.223/E1/DCHS/2014, dated 24.05.2014 as illegal and arbitrary, set aside the same and further direct the respondents therein to appoint the applicant/un-official respondent herein on compassionate grounds as per the G.Os. and Memoranda issued by the first respondent therein from time to time.

3. By an order dated 05.12.2014, the Tribunal, in O.A.No.383 of 2012 with M.A.Nos.2786 of 2014 and 2950 of 2014 and V.M.A.No.354 of 2012 allowed the O.A. directing the second and third respondents therein to provide suitable compassionate appointment to the applicant due to death of her mother Kalavatamma, while in service as Head Nurse, Area Hospital, Kadiri, within a period of two months. Challenging the same, the present Writ Petition is filed.

4. The only contention raised by the learned Standing Counsel appearing for the writ petitioner is that as per the guidelines issued by

the Government of Andhra Pradesh, Finance (Administration II) Department, dated 20.03.2004, a married daughter is not entitled to be appointed on compassionate grounds and therefore, he prays to set aside the impugned order.

5. On the other hand, learned counsel for the un-official respondent contended that since the un-official respondent herein was depending on the earnings of the deceased employee, she is entitled to be appointed on compassionate grounds and as seen from the report given by the District Collector, it is clear that the first respondent is depending on the earnings of the deceased that the Tribunal rightly directed the respondents and that order needs no interference by this Court.

6. The short point that falls for consideration in this Writ Petition is whether a married daughter is entitled for compassionate appointment consequent to the death of her mother. There cannot be any dispute that compassionate appointment cannot be claimed as a matter of right. There must be rules or guidelines issued by the Government for making such appointment. The Government of Andhra Pradesh, Finance (Administration-II) Department, issued memo dated 20.03.2004 vide No.406/10/A.1/Admn.II/2004 which reads as follows:

“The attention of the Director of State Audit, A.P., Hyderabad is invited to the reference cited and he is informed that a married daughter can be given Compassionate Appointment under the following circumstances:

(i) There should be no younger or older unmarried dependents in the family and the spouse should be unwilling or ineligible for appointment.

(ii) The married daughter should be dependent on her father/mother who was a Government Employee/deceased Government Employee.

(iii) There is no objection to consider one of the married daughters if there are more than one married daughters as long

as the condition Nos.1 and 2 are fulfilled.

He is also informed that once marriage is performed, a daughter is not dependent on her father/mother even if she is un-employee or her husband is un-employee. A married daughter is dependent on her father/mother if she is living with her father/mother when her husband deserts her or disappears for years together or dies. In all such cases, the husband should not have left any property/income to his wife and the married daughter is solely dependent on the support provided by her father/mother and is an unemployee.

The Director of State Audit, A.P., Hyderabad is requested to examine the case on the above lines and also keeping the G.Os. and instructions on the subject and take a view in the matter.”

7. A perusal of the above guidelines would go to show that a married daughter if dependent on her father/mother, who was a Government employee/deceased Government employee, then she is eligible. Therefore, on that ground a married daughter can be given compassionate appointment. It seems the Tribunal called for a report from the District Collector. The district Collector submitted a report to the Tribunal in R.C.No.223/E1/DC113/2011, dated 12.04.2014, wherein he stated that:

“P.Prakasam, husband of the deceased is aged about 57 years and unemployee, P.Dicy Vijaya Rani (applicant) is the daughter of the deceased who got married with Sri N.Ravi Kumar and P.Promod Kumar, the son of the deceased got married with T.Henni Prasanna. All the above family members are un-employees and depending on the salary of the deceased employee and there is no movable or immovable properties against the entire family and their annual income is Rs.40,000/-”.

As seen from the said report, it is clear that the first respondent, though married, is depending on the earnings of the deceased as on the date of the death of the deceased. The learned counsel for the first respondent placed reliance on the un-reported judgment of this Court in W.P.No.16242 of 2013, dated 20.06.2013, wherein it is held that:

“.....Even if the applicant is residing in a separate house, that by itself, is not a ground to reject the claim of appointment. So far as the income of the applicant is concerned, it is proved that she is not having any independent income to live on her own and she is also taking care of her mother (widow of the deceased employee).”

8. The Tribunal, after considering the same, rightly passed the said order and that order needs no interference of this Court. Hence, the Writ Petition is devoid of merits and is liable to be dismissed.

9. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. As a sequel thereto, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand dismissed.

K.C.BHANU, J

ANIS, J

Date: 18.06.2015

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