

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**  
**AND**  
**THE HON'BLE MRS. JUSTICE ANIS**  
**WRIT PETITION No. 27304 OF 2015**

**ORDER:** *(per Hon'ble Sri Justice Nooty Ramamohana Rao)*

The Superintendent of CKM Government Maternity Hospital at Warangal along with the State Government and the District Collector, Warangal instituted this Writ Petition against the orders passed on 25.10.2013 by the Andhra Pradesh Administrative Tribunal in O.A.Nos. 10285 of 2011 and 5898 of 2012.

The 1<sup>st</sup> respondent herein instituted O.A.No. 10285 of 2011. He has challenged the validity of the proceedings, dated 07.07.2012 passed by the Superintendent of the Hospital rejecting his claim for regularization of his services in the cadre of Thoti and he prayed for a consequential relief that his services be regularized with effect from 01.09.2005. It will be appropriate to notice that on 07.07.2012, the Superintendent of the hospital has passed an order declining to regularize the services of the 1<sup>st</sup> respondent herein on the ground that the orders passed by the State Government contained in their G.O.Ms.No. 661 General Administration Department, dated 23.08.2008 are not applicable to his case and that the orders contained in the said G.O. are only prospective and hence, the applicant in the O.A. cannot be appointed as a Thoti with effect from 01.09.2005 in the Last Grade Service. It is also asserted that the orders of the State Government in the aforementioned G.O.Ms.No. 661 do not authorize regularization of his services.

It will be appropriate, before we proceed further, to notice that the father of the 1<sup>st</sup> respondent/applicant, while working as a Watchman, has retired from service on medical invalidation grounds with effect from 08.03.2002, as permitted by the District Level Committee. In those set of circumstances, the 1<sup>st</sup> respondent/applicant made a request for appointment, on compassionate grounds, to enable

the family to tide over the hardship caused because of the premature retirement, on medical invalidation grounds, of the sole bread winner of the family, namely, the father of the 1<sup>st</sup> respondent. Taking into account the policy decision of the State Government contained in their G.O.Ms.No. 100, General Administration Department, dated 03.03.2005, permitting appointments to be made on compassionate grounds in cases of medical invalidation of the existing employees, the District Collector, Warangal passed appropriate orders in that regard on 29.08.2005. Consequently, the Superintendent, CKM Government Maternity Hospital, Warangal passed orders in his proceedings, dated 01.09.2005, appointing the 1<sup>st</sup> respondent as a Thoti, on compassionate grounds, in accordance with Rule 9 of the Andhra Pradesh State and Subordinate Service Rules, 1996, but however, the said order of appointment dated 01.09.2005 is made, on contract basis for a period of one year from the date of appointment, subject to the conditions specified therein. He was ordered to be paid a fixed pay of Rs.2,600/- per month and that he would not be entitled for any other allowances. That is how the 1<sup>st</sup> respondent started his journey as a Thoti in the Maternity Hospital on 01.09.2005. He is continuously working as of now. It is not as if that the post of Thoti was not sanctioned to the said hospital nor was it the case that the services of Thoti are not required in the hospital because of any substituted arrangements made for keeping up of the premises of the hospital clean and tidy. In the absence of such particulars, the applicant's case, that he is being continued on a consolidated pay basis for too long a period, should have invoked the necessary consideration in the minds of the competent authority. Instead, he rejected the case of the applicant for consideration by regularizing his services.

The Andhra Pradesh Administrative Tribunal, by the impugned order, has pointed out that the scheme propounded in G.O.Ms.No. 661 is not prospective, as the High Court in Writ Petition No. 2013 of 2012, decided on 29.07.2013 said as under ....

“ G.O.Ms.No. 661, dated 23.10.2008 is prospective in operation, also cannot be accepted for the reason that earlier, when the father of 1<sup>st</sup> respondent was retired on medical grounds, such a scheme was available, but it was set aside subsequently by this Court and later revived pursuant to the orders of Hon’ble Supreme Court. In that view of the matter, the contention of the learned counsel for petitioner that the 1<sup>st</sup> respondent is not entitled for compassionate appointment as his father was allowed to retire prior to issuance of G.O.Ms.No. 661, dated 23.10.2008, cannot be accepted.”

The High Court has made it very clear that a ward of the government servant, who has been permitted to retire prior to issuance of G.O.Ms.No. 661, dated 23.10.2008, is no way disentitled for consideration for appointment on compassionate grounds. In that view of the matter, the Tribunal has set aside the proceedings, dated 07.07.2012 issued by the Superintendent of the hospital and directed him to consider appointing the applicant before it, on regular basis, and also incidentally directed consideration of his case for regularization of his services with effect from 01.09.2005, the initial date of his engagement on contractual basis as a Thoti. It would have been a different matter if the petitioners have informed us that they would be regularizing the services of the 1<sup>st</sup> respondent with effect from any specified date. In the absence of any such information and assurance we are not in a position to appreciate the contentions canvassed in this Writ Petition, which itself has been instituted nearly two years after the Tribunal has decided the issue. No explanation has been offered as to why such a long time has been taken by the petitioners herein to institute this Writ Petition.

Be that as it may, the petitioners are directed to consider the case of the 1<sup>st</sup> respondent for making appointment on regular basis on compassionate grounds upon retirement on medical invalidation from service by his father and that appropriate orders be passed in that regard within a maximum period of one month from the date of receipt of a copy of this order. If the petitioners have any justification for regularizing the services of the 1<sup>st</sup> respondent, with any prospective

date, they may do so explaining the reasons behind the same and communicate the same to the 1<sup>st</sup> respondent.

Excepting this modification to the order of the Tribunal, the Writ Petition lacks any merit and it is accordingly, dismissed. No costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

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**NOOTY RAMAMOHANA RAO, J**

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**ANIS, J**

28<sup>th</sup> August 2015  
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