

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

W.P.No.2347 of 2001

Between:

T.V.Radha Krishna. ... Petitioner

And

The Executive Officer,
T.T.Devasthanam, Tirupati,
Chittoor District.

... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: 07-08-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

- | | | |
|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE S. RAVI KUMAR

WRIT PETITION No.2347 of 2001

-

ORDER:

This writ petition is filed challenging Proceedings dated 17-08-2000 as illegal, arbitrary and violative of Article 14 of Constitution of India and consequently direct the respondent to consider the case of petitioner for appointment as Sweeper or any other suitable post, for which, he is eligible on compassionate grounds.

2. According to the affidavit of petitioner, father of petitioner expired long back and his mother also died in harness on 23-03-1999 while working as Sweeper in the respondent Board, leaving behind the petitioner and his family. It is further stated that his mother rendered 13 years of satisfactory service without any remarks and that he made representations to the respondent for compassionate appointment on 27.03.1999 and on 05.07.1999, requesting the Board to appoint him to any suitable post. It is contended that the respondent through impugned order dated 17.08.2000 rejected his claim on the ground that he was over aged and after rejection of his case, petitioner made a detailed representation on 02.10.2000 requesting the respondent to reconsider the case on compassionate appointment, and in response to the representation, the respondent issued another memo on 10.11.2000 with an endorsement that he was already informed through Memo dated 17.08.2000. Petitioner contended that his Date of Birth is 10.04.1965 and he made first representation on 27.03.1999 and by that time, he was not age barred and that he is able to read and write and entitled for appointment as Sweeper or any other suitable post as his mother died in harness and as he was within age as per the rules and that the proceedings of the respondent dated 17.08.2000 is illegal, arbitrary and violative of principles of natural justice. He further contended that there is no

maximum age limit in case of compassionate appointment and on that ground the proceedings of the respondent dated 17.08.2000 have to be set aside.

3. Advocate for petitioner submitted that by the date of submitting his first application, petitioner was within the age and the respondent without considering the application dated 27.03.1999, rejected the claim of petitioner. He further submitted that through intimation dated 28.08.1999 respondent asked the petitioner to submit certain documents and those documents were duly furnished to the respondent and the rejection of the claim on the ground of over age is absolutely not tenable and the proceedings of respondent have to be set aside.

4. Advocate for respondent submitted that the respondent rightly rejected the claim of petitioner as the compassionate appointment is not a right conferred on the petitioner, and to give compassionate appointment, certain conditions have to be fulfilled, and as the petitioner has not fulfilled those conditions, respondent rightly rejected his application.

5. Now the point that would arise for my consideration is :

“Whether the action of the respondent in rejecting the case of petitioner for appointment to the post of Sweeper or any other equivalent post on compassionate grounds through Proceedings dated 17-08-2000 is illegal, arbitrary and violative of Article 14 of the Constitution of India?”

POINT:

6. The main grievance of petitioner is that he submitted an application for compassionate appointment within time, and by the date of his application, he is not age barred, as he was born on 10.04.1965 and his application for compassionate appointment was submitted on 27.03.1999. Along with writ petition, petitioner filed copy of letter dated 27.03.1999 addressed to the Executive Officer, T.T.Devasthanams, Tirupati and intimation received from the office of Executive Officer, T.T.Devasthanam, dated 28.08.1999; Memo of T.T.D., dated 17.08.2000; Memo of T.T.D., dated 10.10.2000 and Birth certificate issued by Tiumala Hills Panchayat Area, Tirumala in Form No.9. Though the petitioner contended that he submitted application on 27.03.1999, in the first instance there is no material to show that the same was submitted to the respondent within time. The second application is dated 05.07.1999 and a

copy of that application is not filed for the reasons best known to the petitioner. Even according to petitioner, his date of birth is 10.04.1965, therefore by 05.07.1999, he crossed the age limit. He only harped on the application dated 27.03.1999 contending that as it was submitted in time and he was within the age by that date, the rejection of his claim on the ground of over aged is not tenable.

7. The affidavit is silent as to how the application dated 27.03.1999 was sent to the respondent. It is not known whether it was sent either by post or by person. There is no endorsement of any kind on the copy filed along with writ petition. In the intimation dated 28.08.1999, there is no reference about the application dated 27.03.1999 or in the proceedings dated 17.08.2000 and it only refers to representation dated 05.07.1999 of petitioner. When the advocate for petitioner is asked as to why the representation dated 05.07.1999 is not filed, he submitted that due to illiteracy, petitioner might not have kept a copy of this representation dated 05.07.1999 and when the other side has not filed any counter disputing the correctness of the representation dated 05.07.1999 or the application dated 27.03.1999, the contention of petitioner has to be accepted. I am unable to agree with the submission of advocate for petitioner because it is for the petitioner having come to the Court, *prima facie* establish that he submitted application on 27.03.1999 and also about the claim that was made under representation dated 05.07.1999. Simply because, the other side has not filed any counter, the contention of petitioner without any supporting material cannot be accepted. Though petitioner contended that there is no age limit in respect of compassionate appointment, he failed to place any material or relevant service rules of Respondent Board to substantiate his contention. Entire affidavit is silent as to which rule the Respondent Board violated.

8. On a scrutiny of the material, I am of the view that the petitioner failed to substantiate that the respondent rejected his claim contrary to the rules and that he was qualified for compassionate appointment as per existing rules as on 05.07.1999.

9. For these reasons, I am of the view that this writ petition is devoid of merits and accordingly dismissed. No costs. Miscellaneous petitions, if any pending, in this petition shall stand closed.

S. RAVI KUMAR, J

Date: 07-08-2015

gvl