

HONOURABLE SRI JUSTICE S.RAVI KUMAR

WRIT PETITION No.18088 OF 2003

Dated 30-11-2015

Between:

E.Anjanamma and another.

..Petitioners.

And:

The Managing Director, Central Power Distribution Company of A.P.Limited, Red Hills, Hyderabad and others.

..Respondents.

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ORDER:

This writ petition is filed challenging the rejection of application of second petitioner for compassionate appointment.

One V.Vishnu Murthy, while working as lineman in the Operation Division expired on 24-11-2001 after rendering 15 years of service and the petitioner herein submitted an application to the Department seeking compassionate appointment to the second petitioner on 5-6-2002. The Divisional Engineer forwarded the said application to the 3<sup>rd</sup> respondent herein i.e., Superintendent Engineer on 30-9-2002, who in turn forwarded it to the Deputy Secretary i.e., second respondent on 16-1-2003. Second respondent rejected the application of the petitioner for compassionate appointment, through proceedings dated 5-2-2003 on the ground that second petitioner was only 15 years 8 months 26 days on the date of death of his father late Vishnu Murthy.

According to petitioners, second petitioner was 17 years as on the date of rejection of application and second respondent instead of taking the age as on the date of application calculated age as on the date of death of Vishnumurthy and the same is contrary to the circular instructions of the Government.

Heard both sides.

Advocate for petitioner submitted that as per the Government policy, age of minor can be considered as 16 years for appointment under compassionate grounds and several G.Os. were issued by way of instructions to the departments but the second respondent herein without considering those instructions took the age of petitioner as on the date of death of employee i.e., Vishnumurthy and consequently rejected the claim of second petitioner for compassionate appointment. He further submitted that on account of death of the employee, entire family is in harness and there is no other source of income and that wife of deceased employee being illiterate unable to sustain. He further submitted that the claim of compassionate appointment is only to see the welfare of the dependants of the deceased employee and when the second petitioner was aged more than 16 years as on the date of application and about 17 years on the date of rejection, second respondent is not justified in rejecting the claim of the second petitioner.

Advocate for respondents has not disputed the factual aspects but he only contended that as the second petitioner is only 15 years eight months 26 days, as he is not completed 16 years as per G.O.Ms.No.349 dated 12-6-1986, second respondent is justified in rejecting the application of petitioners for compassionate appointment.

Now the point that has to be decided is, for considering compassionate appointment, whether age as on the date of application or age on the date of death of the employee is the criteria?

Advocate for petitioner placed reliance on the order of this court in W.P.No.26184 of 2011 dated 30-9-2011 whereunder Division Bench of this Court upheld the orders of Administrative Tribunal wherein a direction was given to relax the conditions relating to length of time. Division Bench of this court relied on a decision of Supreme Court reported in *PURNENDU MUKHOPADHYAY v. V.K.KAPOOR* () whereunder it is held that Government cannot grant benefit to one set of officers and deny the same benefit to other set of employees who were similarly placed. From the Government orders particularly G.O.Ms.No.349 dated 12-6-1986, instructions were given to consider 16 years age for appointment under compassionate grounds and

under G.O.Ms.No.443 dated 28-10-2002 permission was accorded to minor children of the deceased employee to submit application till one year of their attaining majority. When such liberal approach is shown by the Government in respect of compassionate appointment, the second respondent without considering these Government instructions, rejecting the application of the second petitioner taking age of the second petitioner as on the date of death of employee, in my view, is not proper and correct. The second respondent ought to have taken age of second petitioner as on the date of application and should have examined whether by that date Governmental instructions issued in G.O.Ms.No.349 dated 12-6-1986 and subsequent Government instructions are duly complied or not.

Considering the facts and circumstances and that petitioner could not get the benefits of Government Scheme till now, I am of the view that a direction be given to the respondents 1 and 2 to consider the application of the second petitioner for compassionate appointment taking his age as on the date of application in terms of Government instructions issued from time to time as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of this order.

Accordingly, this writ petition is disposed of. No costs.

As a sequel to the disposal of this writ petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

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JUSTICE S.RAVI KUMAR

Dated 30-11-2015.

Dvs.

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Dvs