

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.28986 of 2011

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06.10.2015

Between:

Potharlanka Sudheer Kumar

.. Petitioner

and

Life Insurance Corporation of India, Hyderabad and another

.. Respondents

Counsel for the petitioner: Mr.G.Krishna Murthy

Counsel for the respondents: Mr.Bathula Rajkiran

for Mr.Bathula Venkateswara Rao

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The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to declare the action of the respondents in rejecting the claim of the petitioner for appointment in place of late P.Nancharaiah on compassionate grounds as illegal and arbitrary.

The petitioner pleaded that he is the nephew of the deceased P.Nancharaiah being the son of the sister of the latter's wife and that when he was two months old baby, he was given in adoption to the said P.Nancharaiah, who had no children. The petitioner further pleaded that all through, he was brought up by the said P.Nancharaiah and his wife as natural parents and that he himself was not aware that he was the adopted son. That while working as Watchman in the office of respondent No.2, the said P.Nancharaiah died on 10.04.2006. That the petitioner studied up to intermediate and because of the financial constraints, he could not continue his studies further. That the petitioner made an application on 26.05.2006 to respondent No.2 seeking compassionate appointment and that a similar application was made by his mother on 13.06.2006 seeking his appointment. That in response to the said applications, respondent No.2 addressed letter, dated

30.06.2006, calling upon the petitioner to submit registered adoption deed. That the petitioner gave a reply on 17.10.2007, wherein he has enclosed certificates i.e., ration card, caste certificate and study certificates from Class I to Junior College, requesting the respondents to consider his case for compassionate appointment. That the petitioner also filed O.S.No.580 of 2001 in the Court of the Principal Junior Civil Judge, Machilipatnam, for declaration that he is the adopted son of late P.Nancharaiah and that same is referred to Lok Adalat, which by its award, dated 17.11.2007, declared the petitioner as the adopted son of late P.Nancharaiah. The petitioner further averred that as the voluminous documents showing proof of adoption submitted by himself and his adoptive mother were not considered, an adoption deed was executed by his natural parents on 20.04.2009 in favour of his adoptive mother, wherein it was clearly recited that on 08.10.1986 at 7.32 a.m., the petitioner, who was two months old baby, was given in adoption by his natural parents to the said P.Nancharaiah and his wife as per Hindu customs. That after getting the said adoption deed registered, the same was sent to the respondents. However, respondent No.2 by the impugned letter, dated 12.07.2011, informed the petitioner that the competent authority at central office has decided that his request for compassionate appointment cannot be entertained as the adoption deed was executed three years after the death of the employee.

The Hindu Adoptions and Maintenance Act, 1956 (for short 'the Act') prescribes qualifications and procedure for a valid adoption. It is the pleaded case of the petitioner that when he was two months old baby, his natural parents have given him in adoption to the said P.Nancharaiah and his wife after observing all the rituals of giving and taking. Concededly, the Act does not envisage any deed in writing nor it prescribes registration of such deed. It is not the pleaded case of the respondents that the natural parents are not competent to give the petitioner in adoption nor the adoptive parents suffered any disqualification in law for taking him in adoption. In order to substantiate his claim that he was taken in adoption by late P.Nancharaiah, the petitioner has filed copies of study certificates, dated 13.07.2006 and 14.11.2007, issued by the Head Masters of the respective Schools in which the petitioner studied in Class - I to Class – V, which show the name of the petitioner's father as P.Nancharaiah. More crucial are the Secondary School Certificate, dated 05.07.2001, issued by the Board of Secondary Education of Andhra Pradesh and

the pass certificate-cum-memorandum of marks, dated 12.07.2004, issued by the Board of Intermediate Education of Andhra Pradesh, which also categorically show the name of P.Nancharaiah as the father of the petitioner. No better proof of adoption of the petitioner than these two documents is needed to establish the claim of the petitioner that he was duly adopted by the said P.Nancharaiah when he was a child. Though these documents were sent by the petitioner to the respondents, the latter have not considered the same. No doubt, the adoption deed appeared to have been executed by the natural parents in favour of the adoptive mother of the petitioner, obviously in their desperate bid to secure employment to the petitioner on compassionate grounds. Even this document is eschewed from consideration, the abovementioned documents i.e., the certificates issued by the Boards of Secondary Education and Intermediate Education are sufficient to hold that the petitioner is the adopted son of late P.Nancharaiah and that he is entitled to be provided with compassionate appointment as per the extant service regulations of respondent No.1.

In the above view of the matter, the Writ Petition is allowed with the direction to the respondents to treat the petitioner as the adopted son of late P.Nancharaiah, consider his claim for compassionate appointment in accordance with the extant service regulations of respondent No.1 within a period of two months from the date of receipt of a copy of this order and communicate the decision to the petitioner.

As a sequel to allowing the writ petition, W.P.M.P.Nos.35848 of 2011 and 34382 of 2015 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

06th October, 2015

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