

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.38041 OF 2015

Date: 25.11.2015

Between :

Sri P.Mallikarjuna, s/o late P.Veera Bhadrudu,

E-426482, Shramik of Koilakuntla Depot,

Aged 23 years, r/o. Koilakuntla, Kurnool Dist.

.... Petitioner

And

The APSRTC, rep.by its Managing Director,

Musheerabad, Hyderabad and two others.

..... Respondents

This Court made the following :

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ORDER:

Heard learned counsel for the petitioner and learned Standing Counsel for the respondent - Corporation.

2. With the consent of learned counsel on either side, this Writ Petition is disposed of.

3. The father of the petitioner, died on 12.07.2008 while working as Shramik in the respondent–Corporation. The petitioner, submitted representation dated 10.03.2015 to provide employment, since he has already attained the age of 21 years instead of payment of compensation. However, the said request was rejected by proceedings dated 22.09.2015 issued by the Regional Manager, Kurnool (the 2nd respondent), on the ground that the petitioner has not attained the age of 21 years within five years from the date of demise of late employee and therefore as per the Scheme of Compassionate Appointment, the petitioner is not entitled to seek employment. Challenging the same, this Writ Petition is filed.

4. Learned counsel for the petitioner contends that the petitioner has attained the age of 18 years within five years limit prescribed and therefore he is eligible for employment and rejection of his request is illegal.

5. According to learned counsel for the petitioner, the petitioner was born on 15.08.1993 and therefore he was aged about 15 years at the time of demise of his father and he attained the age of 18 years within three years thereof. Therefore, within five years, the petitioner has attained the age of majority and eligible for securing employment under the Scheme of Compassionate Appointment and thus denial of such employment is illegal. Learned counsel further submits that the petitioner passed SSC and also ITI in Diesel Mechanic and in fact presently working under the

3rd respondent as Apprentice.

6. Learned Standing Counsel submits that since the petitioner is not satisfied with the job in which he was working, sought for provision of employment as Conductor. His claim was considered *vis-a-vis* the eligibility for the posts of Conductor/Driver.

7. According to the Service Regulations of the respondent – Corporation, for the posts of Conductor/Driver, minimum eligibility is person must complete 21 years of age. The same yardstick is applicable even to a person seeking employment under the Scheme of Compassionate Appointment. He further submits that the Scheme of Compassionate Appointment enables consideration if claimant attains the age of eligibility within five years of demise of ex-employee. Since the petitioner did not attain the said age within five years limit and attained the said age only on 15.08.2014, the claim was validly rejected.

8. Apparently, the issue of eligibility of the petitioner for appointment under the Scheme of Compassionate Appointment is not considered in proper perspective. As per the Service Regulations for the post of Conductor/Driver the minimum age prescribed is 21 years. However, insofar as Shramik is concerned, the minimum age prescribed is 18 years. According to the Scheme of Compassionate Appointment, a person, who is minor at the time of demise of his father, can apply for compassionate appointment, if he attains the age of majority within five years from the date of demise. The petitioner has attained the age of majority i.e., 18 years within three years from the date of demise. Thus, he is eligible for consideration under the Scheme of Compassionate Appointment to the post of Shramik. Even if the

petitioner gave alternative requisition for compassionate appointment as Conductor, there was no bar to consider the claim by the competent authority to the post of Shramik if he is otherwise eligible. The petitioner possesses the qualification of SSC and ITI in Diesel Mechanic and therefore he is fully qualified for appointment and in fact he is working as Apprentice. Thus, the order impugned in the Writ Petition is passed without application of mind and without looking into the eligibility of the petitioner to the post of Shramik.

9. Hence, the impugned order is set aside and the matter is remitted to the Regional Manager (the 2nd respondent) to consider the claim of the petitioner to provide compassionate appointment as Shramik according to his eligibility and suitability.

10. Learned Standing Counsel states that the claim of the petitioner cannot be considered for compassionate appointment unless his mother consents and the petitioner has to submit no objection from his mother for consideration to provide employment. The Scheme of Compassionate Appointment envisages provision of employment or payment of monetary compensation. If employment is given to petitioner, wife of the deceased employee has to give up her claim for compensation. Having regard to the object of the scheme, it is desirable if an affidavit from his mother is obtained and submitted to the competent authority expressing her willingness to forgo the monetary component in the event employment is provided and to provide employment to her son.

11. Subject to submission of such affidavit, the exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

12. The Writ Petition is accordingly allowed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 25.11.2015

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