

**THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD**

WRIT PETITION No.34114 of 2012

Between:

1. The Government of Andhra Pradesh, rep. by its Principal Secretary,
Home Department, Secretariat, Hyderabad, and others.

PETITIONERS

And

S. Haseena, W/o. late Ismail,
R/o. D.No.6-4-666, Marthi Nagar,
Ananthapur.

RESPONSENT



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ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

The State has come up with the above writ petition challenging the order of the Tribunal directing grant of compassionate appointment to the respondent herein.

2. Heard learned Government Pleader for services and Mr.T.P. Acharya learned counsel for the respondent.

3. The respondent's husband died in harness on 19.02.2011, while working as a police constable. At the time of his death his 1st daughter was already married and settled, the 2nd daughter was studying 1st year degree and the only son was already selected as police constable and undergoing training at Hyderabad. Therefore, the claim for compassionate appointment was rejected.

4. But the Tribunal allowed the application on the basis of the report of the Revenue Divisional Officer dated 01.03.2012 to the effect that son was not taking care of the family and he has already gone out of the family fold. The State has come up with the present writ petition questioning the order of the Tribunal.

5. Even at the time when the respondent's husband died, her son was admittedly selected for appointment as police constable and was actually undergoing training. The question as to whether he was supporting the family or not would have arisen only after completion of training. In such circumstances, we do not know how the Tahsildar could have found that the son has already deserted the family. The purpose of compassionate appointment, as held by the Supreme Court, is to tide over the financial crisis into which the family is plunged due to the sudden demise of the

sole bread winner. Therefore, greater degree of scrutiny is necessary on the part of the Courts and the Tribunal while submitting application for compassionate appointment.

6. The principles to be kept in mind while dealing with an application for appointment on compassionate grounds, were enumerated in paragraph-19 of the decision of the Supreme Court in **Bhavani Prasad Sonkar v. Union of India**¹, they read as follows:

"19.Thus, while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of rules or regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment dehors the scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the bread winner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee, viz. parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts."

7. Unfortunately, in the case on hand the Tahsildar seems to have issued a certificate as though the family was in indigent circumstances, due to the demise of the Government Servant, ignoring the fact that one daughter was already married and settled and the son was undergoing training as police constable after selection. The son was not even married

¹ (2011) 4 SCC 209z

at the time when compassionate appointment was sought. The posts held by the Government servants cannot be converted into hereditary posts. The Tribunal erred in appreciating this fact. Therefore, the order of the Tribunal is liable to be set aside.

8. In view of the above, the writ petition is allowed and the order of the Tribunal is set aside. There shall be no order as to costs.

9. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE V. RAMASUBRAMANIAN

1st November, 2016
Js.

JUSTICE G. SHYAM PRASAD



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Date: 01-11-2016

Js.