

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.5206 of 2003

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the letter No.SE/O&M/RTS/Adm/02/F.19/No.908/2K1, dated 30.10.2001, of the Superintending Engineer-Respondent No.2 herein.

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

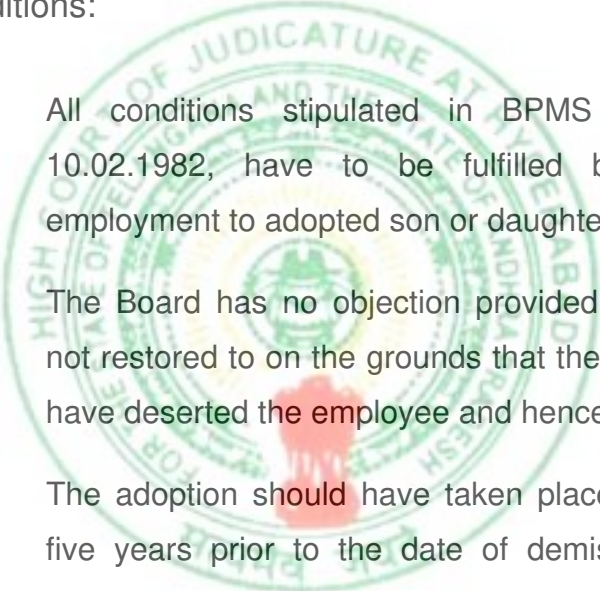
According to the petitioner, when he was three-years old, in the year 1982, he was adopted by one Smt.Maddela Namboo, an employee in the respondent Corporation. It is stated that due to ignorance, the said adoption was not initially registered, but later registered on 21.08.1995. It is further stated that the husband of the mother of the petitioner expired long ago. Therefore, there is nobody else to look after her welfare. There is no dispute that the said Smt.Maddela Namboo applied for retirement on medical invalidation grounds and the same was considered by the respondents and she was allowed to retire with effect from 28.05.2001. It is also stated that after the said orders of retirement, the mother of the petitioner made an application to respondent No.2 requesting to provide employment to the petitioner on compassionate grounds. Respondent No.2 vide impugned letter, dated 30.10.2001, rejected the said request on the ground that the

adopted son is not entitled for appointment on compassionate grounds. According to the petitioner, as averred in the writ affidavit, on 08.02.2002, Smt.Maddela Namboo submitted a representation to respondent No. 2 in the form of a mercy petition for consideration of the case of the petitioner for appointment on compassionate grounds.

It is contended by the learned counsel for the petitioner that the impugned action on the part of respondent No.2 is highly illegal, arbitrary, and opposed to the circular instructions issued by the respondent Corporation vide Memo No.DP/DM(RNT)/PC/G1/5042/94, dated 25.10.1994. It is further contended that the respondents have provided employment to the adopted children also on compassionate grounds, as such, the impugned action is discriminatory and violative of Article 14 of the Constitution of India. It is also contended that the order of rejection is in contravention of Section 12 of the Hindu Adoptions and Maintenance Act, 1956.

On the contrary, it is vehemently contended by the learned Standing Counsel for the respondent Corporation that respondent No.2 is perfectly justified in rejecting the request of the mother of the petitioner and there is no illegality nor there exists any infirmity in the impugned action of rejection.

The information available before this Court manifestly discloses that by the letter impugned, respondent No.2 declined the request of the mother of the petitioner for compassionate appointment on the ground that the petitioner is an adopted son. It is significant to note that in the said letter, dated 30.10.2001, respondent No.2 referred to Memo, dated 25.10.1994. In this context, it is pertinent to note the contents of the said Memo, dated 25.10.1994. In fact, the said Memo is also filed along with the writ petition. In the said Memo, the respondent Corporation stipulated the following conditions:

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- (i) All conditions stipulated in BPMS No.119, dated 10.02.1982, have to be fulfilled before providing employment to adopted son or daughter.
 - (ii) The Board has no objection provided that adoption is not restored to on the grounds that the existing children have deserted the employee and hence the adoption.
 - (iii) The adoption should have taken place legally at least five years prior to the date of demise of the Board Employee.

A reading of the above conditions makes it manifest that the Board took a decision to consider the case of the adopted children also subject to the fulfillment of the conditions, but did not impose any total bar.

In the instant case, according to the petitioner, there is a registered adoption deed executed in the year 1995. Therefore, this Court is of the opinion that respondent No.2 did not properly consider the purport of the conditions stipulated in Memo, dated 25.10.1994.

It is also the submission of the learned counsel for the petitioner that according to Section 12 of the Hindu Adoptions and Maintenance Act, 1956, an adopted child shall be deemed to be the child of his or her adoptive father with effect from the date of adoption. The respondents also did not consider the effect of the said provisions of law and simply rejected the case of the petitioner on the ground that he is an adopted child. It is also the specific case of the petitioner that similarly situated persons have been extended the benefit of appointment on compassionate grounds. In fact, respondent No.2 did not consider all these aspects while considering the case of the petitioner.

Therefore, this Court is of the opinion that ends of justice would be served if the respondents are directed to consider the case of the petitioner afresh in accordance with law and in the light of the above observations.

For the aforesaid reasons, the writ petition is allowed and the letter bearing No.SE/O&M/RTS/Adm/02/F.19/No.08/2K1, dated 30.10.2001, is hereby set aside and the matter is remanded to the

respondents for fresh consideration and for passing appropriate orders in accordance with law after giving notice and opportunity to the petitioner. This exercise shall be completed within three months from the date of receipt of this order.

Consequently, Miscellaneous Petitions, if any pending in this writ petition shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Dt:09.11.2016.

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