

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

+W.P.No.18717 of 2015

-

%16.2.2016

# N.Venkatesh Naik

...Petitioner

VERSUS

\$ Telangana State Road Transport Corporation,  
rep. by its Joint Managing Director, Bus Bhavan,  
'B' Block, Musheerabad, Hyderabad & another.

...Respondents

< **GIST:**

> **HEAD NOTE:**

!Counsel for Petitioner: Sri V.Narasimha Goud

^Counsel for Respondents: Sri A.Ravi Babu

? Cases referred

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

W.P.No.18717 of 2015

-

Between:

N.Venkatesh Naik

... Petitioner

and

Telangana State Road Transport Corporation,  
rep. by its Joint Managing Director, Bus Bhavan,  
'B' Block, Musheerabad, Hyderabad & another.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 16.2.2016

**SUBMITTED FOR APPROVAL:**

-

-

**THE HONOURABLE SRI JUSTICE A.V.SESHA SAI**

1. Whether Reporters of Local Newspapers

May be allowed to see the Judgment? Yes/No

2. Whether the copies of judgment may be

Marked to Law Reporters/Journals? Yes/No

3. Whether Their Lordship wish to see the

Fair copy of the judgment? Yes/No

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

W.P.No.18717 of 2015

-

**ORDER:**

-

This writ petition is filed under Article 226 of the Constitution of India, challenges the order passed by the office of the Regional Manager, Telangana State Road Transport Corporation, Nalgonda vide Proceedings No. No. P3/684(1)/2013-RM.N, dated 01.02.2014.

2. Heard Sri V.Narasimha Goud, learned counsel for the petitioner and Sri A.Ravi Babu, learned Standing Counsel for Telangana State Road Transport Corporation, apart from perusing the material available before the Court.

3. Petitioner's father one Sri N.Pandu was removed from service on 12.11.2003 by the Depot Manager, Devarakonda and assailing the said order of removal, he filed an appeal and pending the appeal, petitioner's father died on 25.4.2004 and

subsequently, the legal representatives of deceased N.Pandu i.e. petitioner herein and his family members raised I.D.No.122 of 2005, questioning the order of removal passed against petitioner's father. The Labour Court-III, Hyderabad by way of award dated 5.2.2007 in I.D.No.122 of 2005 disposed of the said I.D. and the operative portion of the said award reads as under:

"In the result, award is passed and removal order against the first petitioner dt.12.11.2003 is set aside and death of first petitioner on 25.4.2004 is treated as death in harness by considering the service of petitioner upto the date of his death. Petitioners 2 to 4 are entitled for terminal benefits on the death of the first petitioner by taking the service upto 25.4.2004, excluding back wages and attendant benefits from 12.11.2003 to 25.4.2004. Award shall come into force on expiry of one month from the date of its publication U/s.17-A of I.D. Act."

4. The management carried the said award by way of filing W.P.No.27620 of 2007 before this Court and this Court by way of order dated 7.6.2010 dismissed the said writ petition, confirming the award passed by the Labour Court. Thereafter, the office of the Regional Manager, TSRTC, Nalgonda by way of letter bearing No.P3/684(1)2013-RM.N dated 12.7.2013 asked the petitioner to attend the office on 23.7.2013 at 10.30 hrs in order to assess the suitability of the petitioner for the post of Driver/ Conductor/Shramik while asking the petitioner to produce certain documents referred to therein.

5. According to the petitioner, he attended the office of the Regional Manager on 23.7.2003 as directed in the said letter and submitted the certificates as directed. Subsequently, since the petitioner did not receive any communication from the respondents, he got issued a legal notice through his counsel on 23.11.2013. Thereafter, by virtue of proceedings No.P3/684(1)2013-RM.N dated 1.2.2014, the request of the petitioner was turned down by the respondents by assigning the following reasons.

"Removed from service. Based on court order, considered as died in harness for settlement. Petitioners are entitled for only terminal benefits on the death of 1<sup>st</sup> petitioner by taking the service upto 25.4.2004".

6. Calling in question, the validity and legal sustainability of the said proceedings dated 1.2.2014, the present writ petition came to be filed.

7. A counter affidavit deposed by the Law Officer of the Respondent-Corporation has been filed on behalf of the respondents, denying the averments and allegations made in the affidavit filed in support of the writ petition and in the direction of justifying the impugned action.

8. It is contended by the learned counsel for the petitioner that the impugned action on the part of the respondent authorities is highly arbitrary, illegal, unreasonable and violative of Articles 14 and 16 of the Constitution of India. It is the further submission of the learned counsel for the petitioner that the reason assigned by the Respondent-Corporation, as supported by the learned Standing Counsel is neither sustainable nor tenable in the eye of law and contrary to the award passed by the Labour Court as confirmed by this Court.

9. On the contrary, it is vehemently argued by the learned Standing Counsel that there is no illegality nor there exists any infirmity in the impugned action and since the Respondent-Corporation acted strictly in accordance with the award passed by the Labour Court, the issue in the present writ petition is not amenable to judicial review under Article 226 of the Constitution of India.

10. In the above backdrop, now the issue that boils down for consideration is “whether the impugned action on the part of the Respondent authorities in rejecting the request of the petitioner for appointment on compassionate grounds is tenable and sustainable in the eye of law?”

11. There is absolutely no controversy with regard to the fact that the Labour Court by way of award dated 5.2.2007 had set aside the order of removal dated 12.11.2003, while directing further to treat the death of petitioner’s father as death in harness. The Labour Court also in clear terms declared that the petitioners 2 to 4 therein including the petitioner herein are entitled for terminal benefits on the death of the 1<sup>st</sup> petitioner therein. It is also a reality that the said order was confirmed by

this Court in W.P.No.27620 of 2007 filed by the Respondent-Corporation. The only reason assigned by the respondents for denying the claim of the petitioner for appointment is that the death of the petitioner's father in harness is required to be treated only for the purpose of terminal benefits and not for the purpose of compassionate appointment. The said reason assigned by the respondents in the impugned order as well as in the counter affidavit, in the considered opinion of this Court cannot be sustained as the Tribunal completely did set aside the order of removal and as the Tribunal never held that the petitioner herein is not entitled for appointment on compassionate grounds. Once the order of removal is set aside in-toto, the claim of the petitioner herein, by any stretch of imagination cannot be denied in the absence of any finding on the said aspect in the award passed by the Tribunal. It is also to be noted that the petitioner's father died before attaining the actual age of superannuation.

12. For the aforesaid reasons, the writ petition is allowed, setting aside the Proceedings No. No. P3/684(1)/2013-RM.N, dated 01.02.2014 issued by the office of the 2<sup>nd</sup> respondent and consequently the respondents are directed to consider the case of the petitioner for appointment on compassionate grounds in the respondent organization, in accordance with law, within a period of three (3) months from the date of receipt of this order. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

---

A.V.SESHA SAI, J

Date: 16.2.2016

DA

—

—

—

—

—

—

—

—

—

—

—

—

—

—

—

—

—

—

1

1

—

W.P.No.18717 of 2015

—

—

—

—

16.2.2016

DA