

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

AND
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.12434 of 2016

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13.04.2016

Between:

The Greater Hyderabad Municipal Corporation (GHMC),
Hyderabad

...Petitioner

And

The Andhra Pradesh Administrative Tribunal,
Hyderabad and others

...Respondents

Counsel for the petitioner: Mr.P.Kesava Rao, standing counsel for
GHMC

Counsel for respondents Nos.1 to 3: --

Counsel for respondent No.4:--

The Court made the following:

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ORDER: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition arises out of the order, dated 13.11.2014, in O.A.No.9588 of 2011 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad – respondent No.1 (for short 'the Tribunal').

2. The father of respondent No.4 was a *mali* in Park Section, Circle No.10 under the jurisdiction of the Assistant Director of Horticulture Division No.III, Greater Hyderabad Municipal Corporation (GHMC). He died in harness on 08.12.2008. He belonged to schedule tribe (ST) caste. As per the certificate, dated 25.02.2009, issued by the Tahsildar, Khairatabad Mandal, the deceased employee left behind his wife and daughter - respondent No.4, as his legal heirs. Within less than one month after the death of her father i.e., on 02.01.2009, respondent No.4 applied for her appointment on compassionate grounds in place of his father. Respondent No.3 rejected the said application, *vide* letter, dated 16.04.2010 on the ground that she was a married daughter and that her marriage was not legally dissolved. Aggrieved by the said order, respondent No.4 filed O.A.No.6799 of 2010 before the Tribunal. Pending the said O.A., by order, dated 04.10.2010, the Tribunal passed an interim order directing the Commissioner, GHMC – the petitioner herein, to consider and pass appropriate orders on the application of respondent No.4. By letter, dated 22.11.2010, the petitioner, while rejecting her application, informed respondent No.4 that since her divorce O.P. was pending before the Family Court, City Civil Court, an appropriate decision will be taken after its disposal. Aggrieved by the said letter, respondent No.4 filed O.A.No.9588 of 2011 after obtaining decree for divorce, dated 01.04.2011. Based on the said decree, the Tribunal has allowed the O.A. by the impugned order.

3. We have heard Mr.P.Kesava Rao, learned standing counsel for the petitioner at length and perused the record.

4. It is the pleaded case of respondent No.4 that much before the death of her father, she obtained divorce through their caste custom.

The learned standing counsel has, however, seriously disputed this plea and submitted that as on the date when respondent No.4 applied for compassionate appointment, there was no legal divorce and that unless respondent No.4 is able to show that though she was married, she was completely dependent upon her deceased father during his life time or that she was legally separated from her husband as on the date of death of her father, she is not entitled to compassionate appointment.

5. Before embarking upon the merits of the case, we find that the writ petition suffers from unexplained laches. The impugned order was passed by the Tribunal as far back as 13.11.2014 and the petitioner has not made a whisper in the affidavit filed in support of the writ petition, the reason why it could not file the writ petition for more than one year and five months. The law is well settled that a writ petition filed beyond reasonable period is liable to be thrown out on the ground of laches.

In the absence of any explanation given by the petitioner for the long delay in approaching this Court, we are not inclined to exercise our discretion in favour of the petitioner for entertaining the writ petition.

6. Even on the merits of the case, the Tribunal has taken the view that by obtaining divorce on 01.04.2011 under Section 13(1) (ia) and (ib) of the Hindu Marriage Act, 1955; respondent No.4 has got legalized her customary divorce and therefore, she is entitled for compassionate appointment. While exercising the judicial review under Article 226 of the Constitution of India, the High Court does not

sit in appeal against the orders of the Tribunals on merits and unless the view taken by the Tribunal is not a possible view or the same is not sustainable on the facts of the case, it will not interfere with the orders passed by them. In our opinion, on the facts of the case, the view taken by the Tribunal is a possible view, and therefore, we are not inclined to interfere with such view taken by the Tribunal.

7. For the aforementioned reasons, we decline to interfere with the order of the Tribunal and the Writ Petition is, accordingly, dismissed.

8. As a sequel to dismissal of the writ petition, W.P.M.P.No.15581 of 2016 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

M.S.K.JAISWAL, J

13th April, 2016
GHN