

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CC.No.371 of 2016

ORDER :

Heard the counsel for petitioner, and Sri M. Ravindranath Reddy, counsel for respondents.

2. This Contempt Case is filed alleging willful disobedience of the order dt.06.10.2015 in WP.No.31797 of 2015.

3. The petitioner's husband was an employee of the Andhra Pradesh State Housing Corporation Limited, Hyderabad. He expired on 09.12.2009.

4. The petitioner herein filed a representation on 17.07.2010 to the 2nd respondent seeking appointment on compassionate grounds.

5. The petitioner filed W.P.No.31797 of 2015 to declare the action of respondents in not considering the case of petitioner for appointment to any suitable post on compassionate grounds as illegal and arbitrary, and sought a direction to the respondents to appoint the petitioner in any suitable post.

6. The petitioner placed reliance on G.O.Ms.No.1 dt.22.02.2008 and a Memo No.A2/APSHCL/10524/2008, dt.02.12.2014, issued by the Andhra Pradesh State Housing Corporation Limited, Urdugally, Himayathnagar, Hyderabad.

7. The said G.O.Ms.No.1 dt.22.02.2008 had restored the erstwhile scheme of compassionate appointments to dependents of deceased employees to State-Level Enterprises prospectively, subject to condition that Enterprises in question should have positive net-worth, must be financially sound, must be earning profits for the previous five years, and not dependent on Government for any kind of budgetary support whether in the form of Government grants or subsidy.

8. The said Memo No.A2/APSHCL/10524/2008, dt.02.12.2014, was issued by the Andhra Pradesh State Housing Corporation Limited, referring to the above G.O. seeking furnishing of details of employees who expired while in service from 22.02.008 till 02.12.2014.

9. WP.No.31797 of 2015 was disposed of by this Court to consider the case of petitioner for compassionate appointment in terms of said Memo dt.02.12.2014, and pass appropriate orders within eight (08) weeks from the date of petitioner making a fresh representation to the 2nd respondent.

10. Alleging non-compliance with this direction, the present Contempt Case is filed.

11. Counter-affidavit is filed by 2nd respondent stating that the Government is the competent authority to restore compassionate appointments scheme in the above Corporation and grant permission

to any individual for appointment on compassionate grounds, and that even though specific proposals in regard to petitioner were submitted to the Government for consideration for appointment on compassionate grounds in April, 2016, the Government has not accepted the same vide Memo No.30094/VC.A2/2015-3 dt.21.04.2016. In the said order, the Government has stated that the Corporation is a service-oriented Corporation and is implementing Government schemes for weaker sections of the society; that it can never make profit and cannot have positive net worth since it is fully depend on Government budgetary support. The Government, therefore, expressed its inability to accommodate the petitioner on compassionate grounds in a suitable job in the Corporation.

12. Admittedly, G.O.Ms.No.1 dt.22.02.2008, issued by the State Government, is binding on the Corporation and the scheme of compassionate appointment can be implemented only if the Corporation has positive net-worth, is financially sound and is earning profits for the last five years and not dependent on Government for any kind of budgetary support. Since these conditions precedent for making compassionate appointments stipulated in G.O.Ms.No.1 dt.22.02.2008 are not existing, it cannot be said that the Government or the Corporation has committed any error in rejecting petitioner's application for compassionate appointment, or that they have committed any willful disobedience of the order passed by this Court.

13. No doubt, in the order passed by the State Government on 21.04.2016 the Memo dt.02.12.2014 is not specifically referred to. This is obvious for the reason that the said Memo was issued by the Corporation and not by the State Government and would not be binding on the Government. Moreover, the respondents have contended that only particulars of eligible employees for appointment under the said scheme have been called for under the said memo, but no employee has been granted employment pursuant to the said memo.

14. Though the counsel for petitioner referred to G.O.Rt.No.167 dt.04.08.2009, issued by the Government appointing Smt. T. Jagadeswari on compassionate grounds in the above Corporation, the said order was issued as a special case in respect of that particular person keeping in view the pathetic condition of the family of the said person. Moreover, the said order was not passed by the Corporation but by the Government which has chosen in that case to relax the condition imposed in the G.O. as a special case. The same cannot be a precedent to be complied in every case.

15. Therefore, I am satisfied that there is no willful disobedience of the order passed by this Court by the respondents.

16. However, the petitioner is granted leave to question the order dt.21.04.2016 passed by the State Government by way of a fresh Writ Petition, if the petitioner is so advised.

17. Accordingly, the Contempt Case is closed. No order as to costs.

JUSTICE M.S.RAMACHANDRA RAO

Date: 28-10-2016

Ndr/*

