

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.5050 of 2016

Date:18.02.2016

Between:

G.Ravi, S/o Pochamallu

....Petitioner

And:

The High Court of Judicature at Hyderabad
for the State of Telangana and the State of
A.P., repled., by its Registrar (Administration),
And another.

.....Respondents

Counsel for the petitioner: Mr. D.Linga Rao

Counsel for Respondent No.1: Smt Bobba Vijayalakshmi

The Court made the following:

ORDER: *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

In an unfortunate incident, the wife of the petitioner, who was working as a Copyist in the Court of the Additional Junior Civil Judge, Nirmal, Adilabad District, died and the needle of suspicion was pointed to the petitioner.

The petitioner was prosecuted for the offences

under Sections-498-A and 306 of the Indian Penal Code. He is, however, lucky to be acquitted, thanks to the family members, who figured as the witnesses, turning hostile. However, the petitioner's application made for compassionate appointment was turned down by respondent No.2 by the impugned official memorandum, vide O.M.Dis.No.4918/2015/Admn., dated 06.11.2015. In the impugned memo, respondent No.2 opined that as the petitioner has faced specific allegations that he was responsible for the death of his wife, and thereby, his moral turpitude was involved, he cannot be provided compassionate appointment based on the judgment in the criminal case as, the witnesses, who are no other than his children and brother-in-law, turned hostile.

It is a debatable question as to whether the acquittal of the petitioner due to the witnesses turning hostile and thereby, not supporting the case of the prosecution shall be treated as a clean acquittal or the same is based on benefit of doubt.

The necessity to adjudicate this aspect is obviated as, a fair understanding is reached at the hearing between the parties that instead of considering the case of the petitioner for compassionate appointment, the eldest daughter of the petitioner and the deceased could be considered for such appointment. However, the only constraint in this regard is that she has not attained majority within two years from the date of death of the deceased-employee for being considered for compassionate appointment as per Clause-4(2) of the scheme of Compassionate appointment. But, considering the hard and peculiar facts of this case, where, in ordinary course, the petitioner would have been eligible for compassionate appointment, but for his involvement in the criminal case, we feel that interests of justice would be met if, as an exceptional case, the above-mentioned

requirement is relaxed in favour of the eldest daughter of the deceased.

We are informed at the hearing that the eldest daughter of the deceased by name G.Abhinaya is presently about 17 years of age and she also possesses 10th Class qualification. She is permitted to make her application for compassionate appointment within three months of her attaining majority. On receipt of such application, respondent No.2 is directed to consider her case for compassionate appointment without reference to the above-noted requirement of the minor applicant attaining majority within two years from the date of death of the deceased-employee, take an appropriate decision and communicate the same to the applicant within two months of receipt of such application.

Subject to the above observations and directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.6447 of 2016 filed by the petitioner for interim relief is disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

JUSTICE M.S.K.JAISWAL

*18th February, 2016
DR*