

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.20556 of 2014

ORDER:

The petitioner is the wife of deceased employee. Her husband expired on 25.02.2005 while working as the Traffic Inspector in the respondent No.3 Depot. At the time of his death, it is stated that he left behind himself his wife and 15 years son. The petitioner claims that she belongs to BC (D) category and studied upto 8th standard. When there was no scheme for compassionate appointment, she took the monetary benefits that were offered to her. After taking the monetary benefits as aforesaid, the Government of Andhra Pradesh issued G.O.Ms.No.2, Transport, Roads and Buildings (TR.II) Department dated 05.01.2013 directing respondent No.1 Corporation to provide employment on compassionate grounds to the pending 1120 cases in respect of the persons, who died in service, during the period 01.01.1998 to 04.01.2013 as one time measure. After coming to know of the same, the petitioner submitted a representation to the respondents 2 and 3, which was followed by another representation on 17.02.2014. When the petitioner came to know about the notification dated 01.03.2014 regarding consideration of the cases of the persons, who have not taken additional monetary benefits, the same is challenged in the present writ petition and sought for the consequential relief of appointment on compassionate grounds.

A counter affidavit is filed on behalf of the respondents admitting the issuance of G.O.Ms.No.2 dated 05.01.2013 and the notification dated 01.03.2014. It was further stated that the husband of petitioner died on 25.02.2005 and 70% of the death benefits were paid to the petitioner and 30% were paid to the daughter. However, with regard to the additional monetary benefits, the petitioner received 60% of the same and the daughter received 40%. At the time of payment of those amounts, there was no scheme for providing compassionate appointment and in fact, there were instructions in the Circular dated 07.02.2006 with regard to the non-acceptance of applications under the Bread Winner Scheme and there was a ban on recruitment by Circular dated 14.12.2005. It is further stated that the imposition of condition in the Circular dated 01.03.2014 cannot be held to be bad as one cannot have double benefits. It is further stated that another Circular dated 10.02.2015 was also issued, pursuant to the G.O.Ms.No.2 dated 05.01.2013, inviting applications from the dependants of deceased employees, who died during the period 01.01.1998 to 04.01.2013 as one time measure and restricting it to the families, who have not availed the additional monetary benefits.

Learned counsel for the petitioner submits that the petitioner is willing to refund the monetary benefits received and that the case of petitioner may be considered for appointment on compassionate grounds.

Learned Standing Counsel for the respondents submits that the petitioner, having received the additional monetary benefits, is not entitled for consideration of her case for appointment on compassionate grounds and in any event, no application was made after the Circular dated 10.02.2015. Learned Standing Counsel relied on a decision of the Supreme Court in **Andhra Pradesh State Road Transport Corporation, Musheerabad and others v. Sarvarunnisa Begum**¹ in support of his contention that the persons, who have received the additional monetary benefits, are not entitled for consideration of their cases under compassionate appointment.

The facts in the present case are clear. The petitioner's husband expired on 25.02.2005. The petitioner and her daughter received the retirement benefits in the ratio of 70:30 and the additional monetary benefits in the ratio of 60:40 immediately after the death of petitioner's husband. At that time, there was no scheme for appointment on compassionate grounds. In fact, the applications were not received. When

¹ 2008 (3) SCC 402

there are several cases, the Government of Andhra Pradesh issued G.O.Ms.No.2 dated 05.01.2013 directing respondent No.1 to receive the applications for consideration of the cases for appointment under compassionate grounds as one time measure. Accordingly, a notification was issued on 01.03.2014 allowing the acceptance of applications by the recruiting authorities, but restricted them to the cases where the additional monetary benefits were not given. This was followed by another Circular dated 10.02.2015. By the time of those two circulars, the petitioner and her daughter received the additional monetary benefits. The appointment under compassionate grounds is intended only to tide over the immediate difficulties faced by the family. The petitioner, after receiving the additional monetary benefits, cannot wake up after eight years and seek appointment when a Circular was issued inviting applications. The ratio laid down by the Supreme Court in **Sarvarunnisa Begum's** case (supra) is squarely applicable to the facts and circumstances of the present case and the petitioner is not entitled for any consideration of her case under the scheme formulated in 2014 and 2015. Since the condition imposed in the Circular dated 01.03.2014 is for the benefit of family members of the deceased, who have not received the monetary benefits, it cannot be held that the condition restricting the applications to such class of persons is bad in law.

With the above observations, this Writ Petition is dismissed. No order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

31.08.2016
MVA

