

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT APPEAL No. 1414 of 2016

JUDGMENT: (*Per VRS,J*)

Aggrieved by the refusal of the learned single Judge to suspend an order of termination, a person appointed on compassionate grounds has come up with the above writ appeal.

2. Heard Mr. V. Jagapati, learned counsel for the appellant.

3. The appellant was appointed on compassionate grounds, after the death of her husband in harness. But, she was appointed as against the roster point reserved for Scheduled Castes, on the basis of a caste certificate produced by her. Now, the caste certificate has been cancelled by the District Collector.

4. The contention of the appellant is that even if the caste certificate is cancelled, the appointment was only on compassionate grounds and, hence, caste has no relevance to the appointment, and that, therefore, the appointment could not have been cancelled, without even holding an enquiry under Rule 20 of the A. P. Civil Services (Classification, Control and Appeal) Rules, 1991. But, the

learned judge dismissed the stay petition, even while admitting the writ petition. Since the appellant, according to the learned counsel, has an excellent case on merits, it was a case for the grant of an interim order of suspension.

5. But, the issue involved in such cases is as to whether *prima facie* case alone is sufficient for the grant of an interim order. Unfortunately, it is not. The Court has to examine the consequence of granting an interim order and the impact that will have upon the final outcome. In case an interim order is granted and eventually the writ petition is dismissed, even by a remote chance, the salary paid during the period cannot be recovered, as the appellant would have worked and earned. On the contrary, if no interim order is granted and the appellant succeeds in the writ petition, the entire pay and allowances can certainly be paid. This is the ground for testing whether an interim order should be granted or not and not merely the question of *prima facie* case. Therefore, the learned single Judge was right in rejecting the prayer for interim suspension of the order of termination. Hence, we see no reason to interfere with the order of the learned Judge.

6. Therefore, the Writ Appeal is dismissed. However, the respondents are directed to file a counter to the writ petition, as it is a

case of appointment on compassionate grounds, so that the writ petition could be disposed of, at the earliest.

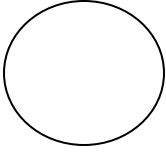
Consequently, miscellaneous petitions if any pending in the writ appeal shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

22nd December, 2016
cbs





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