

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No. 2108 of 2010

ORDER: (*Per VRS,J*)

The petitioner, whose claim for appointment on compassionate grounds was rejected by the Central Administrative Tribunal, has come up with the present writ petition, challenging the said order.

2. Heard Mr. P.Gangarami Reddy, learned counsel for the petitioner, and Mr. B.Narayana Reddy, learned Assistant Solicitor General, appearing for the respondents.

3. Even as per the reply affidavit filed by the Department before the Central Administrative Tribunal, the petitioner's husband was employed as a Wash Boy in the Postal Accounts Departmental Canteen. He died in harness on 18.05.1994. The fact that there was a post of Wash Boy and the petitioner's husband was employed in such a sanctioned post, is admitted by the Department.

4. After the death of her husband, the petitioner made a representation for appointment on compassionate grounds, and by an order, dated 30.06.1994, the respondents started engaging the services of the petitioner on casual basis, pending consideration of her request for regular appointment on compassionate grounds.

5. However, the Department claimed before the Tribunal that there was a ban on recruitment to the post in the Departmental Canteen from 30.01.1992, and that the said ban order was lifted by an Office Memorandum, dated 22.06.1998. As a consequence, the petitioner's claim for appointment on compassionate grounds, was kept pending till 1998, and she was continued on casual basis from 04.07.1994.

6. After the ban order was lifted, the Department received an Office Memorandum, dated 24.11.2000, to the effect that the waiting list of approved candidates for appointment on compassionate grounds should be abolished, due to the long lapse of time. After such a decision was communicated, the Department admittedly offered the post of Grameena Dak Sevak (GDS) to the petitioner in February, 2003. Even according to the Department, the petitioner accepted the said post and gave a declaration.

7. But very strangely, the respondents did not appoint the petitioner as GDS. Therefore, when the petitioner started demanding appointment on compassionate grounds on regular basis, the respondents took a stand that after having accepted the post of GDS, the petitioner should not have sought appointment on compassionate grounds. This stand of the Department was completely arbitrary, in

view of the fact that except the letter of offer, the petitioner was not given appointment as GDS.

8. However, the petitioner was continued on contingent basis, even till the date when she approached the Tribunal and filed O.A.No.425 of 2009. But, the Tribunal dismissed the application, on the ground that the claim for appointment on compassionate grounds was hopelessly time barred.

9. The reasoning given by the Tribunal, is not in accordance with the law of limitation as enunciated in Section 21 of the Administrative Tribunals Act, 1985. The petitioner has had a continuous cause of action from 1994. By an order, dated 30.06.1994, she was engaged on casual basis, since at that time there was a ban on recruitment, under DoPT O.M., dated 30.01.1992. After the ban was lifted on 22.06.1998, the respondents got the list of approved candidates abolished, by virtue of two different Office Memorandums, dated 24.11.2000 and 08.02.2001. Thereafter, the Department offered the post of GDS on 14.02.2003. Despite the petitioner accepting the offer, she was neither granted the post of GDS nor any other post. Therefore, it is not a case where the petitioner slept over her rights. The Department took alternative pleas at different points of time and kept the petitioner employed either on casual basis or on contingency

services for the past 22 years. Therefore, the case could not have been dismissed by the Tribunal, on the ground of laches.

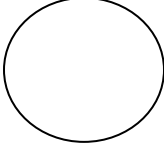
10. In view of the above, the petitioner is entitled to succeed. After all, she was originally offered appointment on casual basis, considering her indigent circumstances. In Paragraph No.11 of the reply affidavit filed by the Department before the Tribunal, there is a specific admission that the Circle Screening Committee for appointment to Group 'D' posts, found the petitioner to belong to a poor family and decided to grant her appointment on compassionate grounds. Therefore, the respondents cannot make such a person run from pillar to post for 20 years. Hence, the Writ Petition is allowed, the order of the Central Administrative Tribunal is set aside, and the original application filed by the petitioner is allowed. The respondents are directed to issue orders of appointment on regular basis to any one of the posts, to which the petitioner may be eligible, within a period of eight (8) weeks.

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

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

14th December, 2016
cbs



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Writ Petition No. 2108 of 2010
(allowed)

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