

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.9057 of 2016

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Between:

Varukolu Shankar

PETITIONER

AND

1. The Revenue Divisional Officer, Karimnagar, Karimnagar District, and others.

RESPONDENTS

ORDER:

This writ petition is filed questioning the order dated 28.10.2015 passed by the 1st respondent rejecting the case of the petitioner for compassionate appointment in terms of G.O.Ms.No.4 dated 28.02.2014.

The father of the petitioner was appointed as fair price shop dealer of shop No.419 of Veerapur Village and was granted authorisation vide order dated 07.05.2010, initially, for a period of two years and the same was renewed from time to time. While so, the father of the petitioner died on 09.08.2015. Hence, the petitioner submitted application dated 21.08.2015 to the 3rd respondent for appointing him on compassionate grounds, and the 3rd respondent forwarded the same to the 1st respondent on 28.09.2015 for taking appropriate action. Thereafter, the 1st respondent issued the impugned Memo dated 28.10.2015 rejecting the application of the petitioner on two grounds – 1) as per Civil Supplies Act & Rules, in Para No.5 sub Para 5.1 the person should have minimum educational qualification of 10th class; and 2) as per Para 6, the person should not be completed 40 years of age as on the date of application, without there being any mention regarding particular Rules. The same is challenged in this writ petition.

Learned counsel for the petitioner by placing reliance on Para-5 and Para 6(iv) of G.O.Ms.No.4 dated 28.02.2014 would submit that the very G.O. is meant to take care of the legal heirs of a deceased fair price shop dealer. The G.O. particularly had taken note of the fact that the children of the deceased fair price shop dealer might have crossed their age of appointment with respect to the post, and the usage of the words in Para 6(iv) make it clear that apart from the over aged people, who are eligible, it would also make a provision for over aged children. So far as the qualification of 10th class is concerned Para 6(v) of the G.O makes it clear that they can acquire qualification within three years after their appointment. In that view of the matter, the

learned counsel submits that rejection is not in conformity with the terms and conditions stipulated in G.O.Ms.No.4 dated 28.02.2014.

On the other hand, learned Government Pleader for Civil Supplies opposes the writ petition and would submit that admittedly the petitioner is over aged and is not eligible as on the date of demise of his father.

The fact that the petitioner is aged about 42 years as on the date of demise of his father is evident from the application filed by the petitioner on 21.08.2015, which shows that the petitioner had crossed the age limit of 40 years, which is the prescribed age for appointment of fair price shop dealer. So far as the qualification 10th class is concerned, if the petitioner is otherwise eligible, he would have had an opportunity to acquire the education qualification within three years from the date of appointment. In that view of the matter, the argument of the learned counsel for the petitioner is unassailable. However, a fair reading of Para-5 read with Para 6(iv) of the G.O., does not indicate that a person, who had crossed the age as on the date of demise of the fair price of dealer shall be entitled to be considered.

To appreciate the language used in Para-5 and Para-6(iv), they may be read as under:

“5. Government also considered that some of the survivors of the deceased Fair Price Shops have crossed the age for consideration of any other job and they were dependent on the Fair Price Shop for their livelihood and that denying them the compassionate appointment would cause lot of hardship to them. Government also examined the legal issues involved in the matter.

6. After considering all the above, in continuation of orders issued in the reference 1st read above, Government, decided to appoint legal heirs of the deceased Fair Price Shop Dealer and hereby issue orders to appoint legal heirs of the deceased Fair Price Shop Dealers with the following guidelines:-

- i)
- ii)
- iii)
- iv) The compassionate appointment shall also

applicable to the persons who were within the age limit as on the date of the demise of the Fair Price Shop Dealer.”

A combined reading of Para-5 read with Para 6(iv) leave no manner of doubt that while Para-5 states that an opportunity is required to be given for a deceased fair price shop dealer’s children as there is possibility of they being dependent on the earnings of the Fair Price Shop dealer, and they also might have crossed the age for consideration of other jobs, the same does not speak further about the age requirement. Whereas Para-6(iv) speaks about only the persons, who are within the age limit as on the date of demise of fair price shop dealer as eligible. The usage of the word ‘also’ in Condition 5(iv) is only surplusage as there are other clauses dealing with the age, particularly, the over aged individuals.

In that view of the matter rejection order passed by the 1st respondent, based on the age of the petitioner, cannot be found fault with though the same may not be justified with respect to the educational qualification. There being no illegality or arbitrariness in the impugned order, the writ petition deserves to be dismissed.

Accordingly, the writ petition is dismissed. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

JUSTICE CHALLA KODANDA RAM

21st March, 2016.
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