

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.29574 of 2012

ORDER:

1. The case of the petitioner is that his father worked as a driver and while working as such he expired on 18.04.2002 leaving behind him the petitioner and his two sisters apart from the petitioner's mother. The petitioner's mother made an application in the year 2004 itself to the Depot Manager, Narsipatnam, for consideration of her case for the post of attender on compassionate grounds. But, the same was not considered. However, the then Depot Manager, Narsipatnam, advised the mother of the petitioner to avail additional monetary benefit in lieu of employment, she refused. The petitioner submitted representations before the 2nd respondent on 01.03.2005, 12.07.2007 and again on 10.03.2009 for appointment on compassionate grounds and when no orders were passed, the present writ petition was filed.

2. A counter-affidavit was filed on behalf of the respondents stating that the petitioner's father, who worked under Corporation, expired on 18.04.2002 while in service. His wife was paid the amount due to the deceased towards Provident Fund and EDL IF. It was further stated that the compassionate appointment under Bread Winner Scheme is applicable only to the regular employees as per the existing guidelines. At the time of

death of the father of the petitioner, he was working only on casual basis.

3. Learned Counsel for the petitioner submitted that the Corporation appointed several persons on compassionate grounds and in fact issued proceedings on 19.02.2012 in the case of one Smt.Lakshamma, whose husband died in the year 2003. He also submitted that in the case of one Rukminamma, proceedings were issued by the respondents.

4. Learned Standing Counsel for the respondents, on the other hand, by placing reliance on a decision of the Supreme Court in *General Manager, Uttaranchal JAL Sansthan V. Laxmi Devi* ^[1], submitted that the person, who was not regularly appointed nor who has not put in three years of continuous service in a regular vacancy, cannot be called as a regular employee and his dependants are not entitled for appointment on compassionate grounds.

5. Since the nature of employment of the father of the petitioner is not before this Court and there is a dispute, this Court is not expressing any opinion on the status of the deceased. In the circumstances, the 3rd respondent shall consider the case of the petitioner pursuant to the representations made by the petitioner and pass appropriate orders thereon in accordance with law within a period of three months from the date of receipt of a copy

of this order.

6. The Writ Petition is accordingly disposed of. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

**A.RAMALINGESWARA
RAO, J**

15-07-2016
Gsn

[\[1\]](#) (2009) 7 Supreme Court Cases 205