

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and

The Hon'ble Sri Justice M.S.K.Jaiswal

Writ Petition No.13633 of 2016

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Date: 22.04.2016

Between:

Sri S.Chandramouli

.. Petitioner

and

The Principal Secretary
Revenue Department,
Government of Telangana
Hyderabad and 3 others.

.. Respondents

Counsel for the petitioner :

Mr.A.Govinda Reddy

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The Court made the following:

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Order : (Per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The petitioner's father died while in service as Village Servant (Kavalkar) on 16-02-2012. Immediately thereafter, the petitioner approached respondent Nos.2 to 4 for appointment in place of his father on compassionate grounds. His request was rejected on the ground that he does not possess 10th class, which is prescribed as the minimum education qualification for Village Servant/Village Revenue Assistant. However, subsequently, the petitioner acquired 10th class qualification and again approached respondent No.2. By Order, dated 31.10.2015, respondent No.2 has rejected the petitioner's request on the ground that the post, which fell vacant due to the death of the latter's father, was already filled up and that there is no vacancy available. Feeling aggrieved by the said order, the petitioner filed OA.No.15 of 2016 before the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal'). The Tribunal, by the impugned order, has dismissed the same.

It is not in dispute that within the stipulated period of one year from the date of death of his father for making an application for appointment on

compassionate grounds, the petitioner did not have the required qualification for such appointment. Therefore, his application was rejected and the said rejection order has become final. Thereafter, the petitioner has again approached respondent No.2 with a request for appointment as he has subsequently acquired the requisite qualification. This request was again rejected by respondent No.2 as the vacancy was already filled up by them.

Under the constitutional scheme, every public post must be filled up through competitive test and the Courts held that the schemes providing for compassionate appointment are only an exception to Article 16 of the Constitution of India. The object behind the scheme is to provide immediate succour to the family members of the employees dying in harness. Admittedly, in this case, the employee died on 16-02-2012 and to the misfortune of his family, the petitioner was not qualified to be appointed in his place. After a lapse of three years of rejection of his request, the petitioner again approached respondent No.2 after obtaining prescribed qualification and by that time, the vacancy was filled up. In the above facts of the case, the Tribunal has rightly dismissed

the OA filed by the petitioner.

The learned Counsel for the petitioner relied upon GO.Ms.No.234 Revenue (Services – II) Department, dated 10.12.2015, whereunder the family members of the deceased employees were exempted from acquiring such qualification for a period of three years with a further grace period of two years. In our opinion, this GO, which is prospective, does not apply to the petitioner as even before the said GO was issued, his claim was rejected twice.

In the above facts and circumstances of the case, we do not find any merit in the Writ Petition and the same is, accordingly, dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.17032 of 2016, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(M.S.K.Jaiswal, J)

Dt: 22nd April, 2016
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