

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[*Special Original Jurisdiction*]

FRIDAY THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND SEVENTEEN

PRESENT

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE DR.JUSTICE SHAMEEM AKTHER

WRIT PETITION No. 20008 OF 2006

Between:

N. Kanthamma ... Petitioner

V/s.

The General Manager,
Integral Coach Factory,
Perambur, Chennai,
Tamil Nadu & Anr. ... Respondents



Counsel for the Petitioner : Sri V. Eswaraiah Chowdary

Counsel for the Respondents : Sri R.S. Murthy

The court made the following: : [order follows]

HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT PETITION No. 20008 OF 2006

ORDER : (Oral, *Per the Hon'ble Sri Justice Suresh Kumar Kait*)

This writ petition is filed by the petitioner invoking the inherent jurisdiction of this Court under Article 226 of the Constitution of India, seeking writ of mandamus to declare the orders dated 03/8/2006 passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, in O.A.No. 144 of 2006 and set aside the same by allowing the O.A. as prayed for and to pass such other suitable orders as this Court may deem fit and proper in the circumstances of the case.

2. Heard Sri V. Eswaraiah Chowdary, learned counsel for the petitioner and Sri R.S. Murthy, learned counsel for the respondents.

3. Vide the present writ petition, the petitioner has assailed the order dated 03/08/2006 passed by the Central Administrative Tribunal, Hyderabad, in O.A.No. 144 of 2006, whereby the learned Tribunal dismissed the O.A. of the petitioner on the ground of delay.

4. The case of the petitioner, as stated in the petition, is that she is the legally wedded wife of late Nallagondla Panchalaiah, who joined

in the service on 16/10/1987 in the respondents Integral Coach Factory, Chennai as CHG-B bearing Employment No. 678882. He had rendered the service for a period of ten years and died in harness on 19/06/1996.

5. It is further stated that from the wedlock, the petitioner and deceased, Penchalaiah had no issues. However, prior to death of Penchalaiah, the deceased, the petitioner and her mother were dependent on the deceased. The petitioner's husband got the job after marriage, thereafter, her husband had started neglecting her. Accordingly, she filed MC.No. 1 of 1985 and the same was ordered. In the interregnum period, her husband had illegal intimacy with one lady, namely; Rajyam. After the death of her husband, she filed the suit in O.S.No. 81 of 1996 on the file of the Court of Junior Civil Judge, Nandalur to declare her as the legally wedded wife of Nallagondla Penchalaiah. In the said suit, Mrs.Rajyam, who is alleged to be second wife of her husband, was impleaded as defendant No.3 and the said suit was decreed. Aggrieved by the judgment and decree, Mrs.Rajyam along with her children filed first appeal in A.S.No. 24 of 1999 on the file of

the Court of Senior Civil Judge, Rajampet. The learned Senior Civil Judge, modified the trial court judgment and decree, declaring that the petitioner and Rajyam, who alleged to be second wife and her children are equally entitled to the benefits of her husband late Panchalaiah. Against the judgment and decree in AS.No. 29 of 1999, the petitioner and Rajyam filed second appeals in S.A.No. 313 of 2001 and S.A.No. 1165 of 2001 before this Court and the same were disposed, declaring the petitioner as legally wedded wife of her husband to receive the benefits and also the children of Mrs. Rajyam are entitled to receive the share in the family pension and death-cum-retirement gratuity till they attain majority. The said order was passed vide judgment dated 19/09/2003.

6. It is the further case of the petitioner is that thereafter she received the death benefits of her husband on 23/04/2004 from her husband's department after submitting the judgment and decree dated 19/09/2003, which was passed by this Court in SA.Nos. 313, 1165 of 2001. After receiving the amount, she approached the respondent authorities for providing compassionate appointment in the Integral

Coach Factory, Chennai. Accordingly, the respondent-authority had assured to provide alternative job in the factory on compassionate appointment, but it will take some more time. Accordingly, advised to wait till then. She awaited nearly 1 ½ years from the date of receipt of the death benefits of her deceased husband. Finally she made a representation to the respondent authorities on 13/02/2006, however, there is no response from the respondents.

7. Learned counsel appearing on behalf of the petitioner submits that having no other alternative, the petitioner filed O.A.No. 144 of 2006 before the Central Administrative Tribunal, Hyderabad bench, however, the said O.A. was dismissed at the admission stage, holding that there is a delay of more than two years in approaching the Tribunal or making a representation to the concerned authority.

8. It is not in dispute that the respondents did not file the counter-affidavit before the Tribunal, however, filed the counter-affidavit before this Court. We note, in Para No.6 of the counter-affidavit, it is stated that the petitioner applied for compassionate appointment on 29/11/2003. The said request was having regard to the circumstances of

the delay was rejected, since the petitioner was being paid family pension. In the counter-affidavit, nowhere it is stated that on which date the representation of the petitioner was rejected. Also it is not mentioned in the order passed by the learned Tribunal.

9. The fact remains that the petitioner and second wife of the deceased were fighting legal battle before lower courts and finally reached to this Court, thereafter, filed judgment and decree dated 19/09/2003 passed in SA.Nos.313 and 1165 of 2001, whereby she was declared as legally wedded wife of the deceased. Thus, the petitioner being the legally wedded wife of the deceased seeking compassionate appointment.

10. Keeping in view the facts recorded above and in the interest of justice, we hereby set aside the impugned order dated 03/8/2006 passed by the Central Administrative Tribunal, Hyderabad bench, in O.A.No. 144 of 2006 and the respondents are directed to consider the case of the petitioner after conducting enquiry with regard to economic condition of the petitioner and if the petitioner is found eligible compassionate appointment shall be given in favour of the petitioner.

11. We hereby make it clear that the respondents shall not take the ground of delay, however, decide the representation of the petitioner on merits.

12. We hereby make it clear that the above exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

13. With the above direction, the writ petition is disposed of. There shall be no order as to costs.

14. As a sequel, pending miscellaneous petitions, if any, shall stand closed.



JUSTICE SURESH KUMAR KAIT

Dr. JUSTICE SHAMEEM AKTHER

**HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE DR.JUSTICE SHAMEEM AKTHER**

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(Order of the Division Bench delivered by
Hon'ble Sri Justice Suresh Kumar Kait)



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