

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION (TR) NO.233 OF 2017

Date: 04.07.2017

Between:

Kande Jayaraj S/o K.Ramaiah, Aged 44 years,
R/o Narsingapur Village, Veenavanka Mandal,
Karimnagar district.

..... Applicant/Petitioner

and

The District Collector, Karimnagar District,
Karimnagar and others.

.....Respondents



The Court made the following:

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ORDER:

Heard Sri T.Balaswamy, counsel for petitioner and learned Government Pleader for Services-II (TG) for respondents.

2. Father of petitioner was employed as Gangmen in the year 1968. In the year 1991, he suffered with health problems. Therefore, in the year, 1992, he applied for declaring him as medically invalidated and to retire from service. Simultaneously, he also applied for provision of employment on compassionate grounds to his son. The Medical Board declared him as incapacitated to perform his duties further. Accordingly, he was retired from service. In consideration of request of father of petitioner for provision of employment, petitioner was appointed as Attender, by order dated 09.12.1994. Petitioner did not join duty as per the appointment order issued. After 18 years, petitioner seems to have complained alleging that in his place, person by name Boddu Srinivas took employment by impersonating and such person should be removed from service and the post should be given to the petitioner. On the complaint given by the petitioner, B.Srinivas was examined and having found that B.Srinivas was not entitled to be appointed and illegally appointment was claimed, he was removed from service. He was unsuccessful in the claim made by him before A.P.Administrative Tribunal. Simultaneously petitioner requested that he be provided employment as originally offered to him in the place of Boddu Srinivas after his removal. This request of the petitioner in the place of B.Srinivas was

considered. By order impugned, request of the petitioner was rejected. While rejecting the request of the petitioner, the competent authority also took note of the complaint given by B.Srinivas that it was a family understanding and he paid money to the petitioner in lieu of securing employment and accordingly employment was given.

3. Learned counsel for petitioner sought to contend that having waited for some time to secure employment and employment was not provided after retirement of father of petitioner, the family migrated to State of Maharashtra. His father died in the year 1996. The family came back to their native place in the year 2012. At that stage, they realized that false claim of appointment was made by B.Srinivas and knocked away the post given to the petitioner and, therefore, immediately complaint was filed.

4. The list of dates and events noted above would disclose that the complaint of alleged fraud played by B.Srinivas was made for the first time after more than 18 years.

5. It is, thus, seen that employment was offered to the petitioner in the year 1994, but he did not accept. Only after 2012, he made claim for provision of employment and made a challenge to securing of employment by B.Srinivas in his place.

6. There are two components to the issue in consideration; 1) securing of employment by playing fraud by B.Srinivas and 2) provision of employment to the petitioner.

7. The issue of securing false employment by B.Srinivas is now stood concluded. He was dismissed from service and order of dismissal has become final.

8. Thus, reverting to the claim of the petitioner for provision of employment, admittedly, petitioner was provided employment in the year 1994. Ignoring the issue of narration of events noted above, the fact remains that once employment is offered, such person should accept the employment and join in the post offered within the time prescribed. In the case on hand, admittedly, petitioner did not join in time offered as stated by the respondents in their counter-affidavit. According to the procedure envisaged, a family member seeking employment on account of retirement of employee on medical invalidation grounds should approach the competent authority within one year from the date of such retirement and such claim can be entertained only within one year. In the instant case, assuming that petitioner was not aware of giving him employment, he should have approached the competent authority within one year from the date of order retiring his father from service. Apparently, he did not approach. The order of appointment dated 09.12.1994 cannot be validated after this long lapse of time. The claim of employment by playing fraud by Mr. B.Srinivas does not save the delay and latches on the part of petitioner in securing employment after long lapse of time. Petitioner has to be blamed himself for not utilizing opportunity offered by the respondents by providing employment to him. The compassionate appointment is an exception to the normal method of recruitment.

9. The claim for compassionate appointment and grant of appointment is not automatic, merely because the breadwinner died or retired on medical invalidation grounds. Compassionate appointment is intended to ameliorate the suffering of the family on the ground of death of breadwinner or retirement on medical invalidation grounds and the family has no other person to support the financial needs and, therefore, requires some support. Thus, such claim has to be proximate to the event. In the case on hand, even according to the submission made by the learned counsel for petitioner, family migrated to the State of Maharashtra and lived there for about 20 years before coming back to native place. In the facts of this case, it cannot be said that family continued to be under the destitute circumstances to claim employment after almost 25 years of the date of retirement of employee from service. Therefore, I see no merit in the submission made to seek employment and I do not see any illegality in the order passed by the Superintending Engineer on 30.11.2012, impugned in this writ petition.

10. Writ Petition (TR) is accordingly dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 04.07.2017
kkm

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