

*THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE N.BALAYOGI*

WRIT PETITION No.25149 of 2013

ORDER: (per SK,J)

The erstwhile Government of Andhra Pradesh and its authorities in the Irrigation Department filed this writ petition aggrieved by the order dated 22.06.2012 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.11857 of 2009. By the said order, the Tribunal directed the authorities to reconsider the case of the first respondent herein for appointment to any post as per his qualification under the old scheme for compassionate appointment on grounds of medical invalidation as it was in operation during 1996-97, which was thereafter revived under G.O.Ms.No.661 dated 23.10.2008, without reference to the prospective effect of the revived compassionate scheme and to pass appropriate orders within eight weeks from the date of receipt of the order.

By order dated 28.08.2013, this Court granted interim suspension of the order under challenge.

W.V.M.P.No.1733 of 2017 was filed by the first respondent to vacate the aforestated order.

Heard the learned Assistant Government Pleader for Services (Telangana) and Sri M.Bharat Shah, learned counsel for the first respondent.

The prayer of the first respondent in the subject O.A. was to set aside the letters dated 14.09.2009 and 22.11.2009 along with the consequential Memo dated 23.12.2009 issued by the authorities, whereby his appointment on compassionate grounds as a Watchman was

cancelled. The father of the first respondent worked as a Cook (Grade-II) under the Executive Engineer, Irrigation and Command Area Development, Division No.4, K.M.R. Project, Kaddam, Adilabad District. He retired from service on medical invalidation on 21.08.1996. The first respondent was appointed as a Watchman *vide* proceedings dated 17.02.2000 on compassionate grounds under the scheme of medical invalidation which was in force as on that date *vide* G.O.Ms.No.504 dated 30.07.1980, G.O.Ms.No.309 dated 04.07.1985 and G.O.Ms.No.214 dated 09.06.1998. This appointment was however cancelled *vide* proceedings dated 03.05.2000 of the Executive Engineer, Irrigation and Command Area Development, Division No.4, Kaddam, Adilabad District.

Perusal of the proceedings dated 03.05.2000 reflects that the cancellation was solely based on the ground that there were surplus Work Charged employees. However, on the very next day, i.e. 04.05.2000, the Executive Engineer, Irrigation and Command Area Development, Division No.4, K.M.R. Project, Kaddam, Adilabad District, asked the first respondent to apply for the post of Attender/Watchman as there were vacancies in his division. The first respondent therefore submitted representation dated 24.05.2000 requesting appointment on compassionate grounds in any suitable post. As his representation came to naught, he filed O.A.No.2183 of 2004 before the Tribunal and the same was dismissed on 06.06.2005. He was however given liberty to apply afresh, if he so desired. The first respondent thereupon submitted representation dated 20.09.2005 seeking consideration of his case for appointment on compassionate grounds in any suitable post. Under order dated 14.09.2009, the first respondent's claim was rejected on the ground that G.O.Ms.No.661 dated 23.10.2008, whereby the scheme for

compassionate appointment on medical invalidation grounds was revived, had only prospective effect.

Aggrieved thereby, the first respondent filed the subject O.A. seeking appointment in any Class-IV post on compassionate grounds asserting that the revival of the scheme would have retrospective effect. The Tribunal found that the compassionate appointment of the first respondent under proceedings dated 17.02.2000 was at a time when the scheme providing for compassionate appointment for dependents of employees who retired on medical invalidation was very much in operation. The Tribunal therefore held that there was no justification for the authorities to remove him from service after three months of his appointment as a Watchman on the ground that there were surplus Work Charged employees. The Tribunal further held that as the scheme was wound up only in the year 2002, *vide* G.O.Ms.No.202 dated 27.04.2002, it could have no application to the compassionate appointment of the first respondent during the period when the scheme was very much holding the field. Holding so, the Tribunal directed reconsideration of the case of the first respondent for appointment to any post under the old scheme operating during 1996-97.

In the light of the admitted facts, as set out supra, we find that at the time the first respondent was provided compassionate appointment on the ground of retirement of his father upon medical invalidation, the scheme for providing compassionate appointment was very much in existence. The basis for cancellation of his appointment was a *non sequitur* inasmuch as the authorities asked the first respondent to apply one day thereafter citing the existing vacancies in the division. The

cancellation of the said appointment is therefore without justification as rightly pointed out by the Tribunal.

Having introduced a welfare scheme for coming to the aid of those employees who retired on grounds of medical invalidation, the authorities have to be circumspect in dealing with the benefits thereof and the present case clearly demonstrates as to how such a beneficiary can be cast out by total non-application of mind. Winding up of the scheme in the year 2002 and its revival in 2008 practically have no impact on the first respondent as he was covered by the earlier scheme during its operation prior to its winding up in the year 2002. We therefore find no grounds to interfere with the well reasoned and cogent order passed by the Tribunal.

The writ petition is accordingly dismissed. Interim order dated 28.08.2015 shall stand vacated. The petitioners shall give effect to the order passed by the Tribunal expeditiously and, in any event, within four weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE N.BALAYOGI

Date:20.04.2017

GJ