

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE T.RAJANI

Writ Appeal No.173 of 2017

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.19508 of 2016 dated 21.11.2016. The 1st respondent herein invoked the jurisdiction of this Court seeking a writ of mandamus to direct the respondents in the writ petition to consider his representation for appointment on compassionate grounds in any post which was suitable to him, according to his eligibility, by relaxing the cut off date i.e 01.11.2014 or, in the alternative, to direct them to provide monetary benefit as per the scheme in vogue after calling for the records.

The facts, as noted in the order of the Learned Single Judge, are that the 1st respondent-writ petitioner's father, who was a Divisional Manager with the appellant-insurance company, died on 02.04.2011. Thereafter, the 1st respondent-writ petitioner made an application on 29.10.2015 for appointment on compassionate grounds. On the ground that the scheme for compassionate appointment came into force from 01.11.2014, and it is only children, of employees who died thereafter, who were eligible for compassionate appointment, the 1st respondent-writ petitioner's request for compassionate appointment was not considered favourably.

Clause (1) of the subject Scheme covers compassionate appointment to a dependant family member of a permanent employee of a Public Sector General Insurance Company (PSGIC) who (a) dies while in service (including death by suicide); and (b) is retired on medical grounds due to incapacitation before reaching the age of 55 years. Clause (1.2) of the Scheme stipulates that, for the purpose of the

Scheme, “employee” would mean and include only a confirmed regular employee who was serving full time or part-time on scale wages, at the time of death/retirement on medical grounds, before reaching the age of 55 years, and does not include any one engaged on contract/temporary/casual or any person who is paid on commission basis. Clause (2) of the Scheme defines “dependant family member” to include a spouse or wholly dependant son or wholly dependant daughter. Clause (4) deals with posts to which appointments can be made, and Clause (5) deals with eligibility.

Reliance was placed before the Learned Single Judge by the appellants herein on Clause (8) of the Scheme which stipulates the time limit for considering applications, and reads as under:

8. TIME LIMIT FOR CONSIDERING APPLICATIONS:

The scheme comes into force prospectively from 01st November, 2014. Application for employment under the Scheme from eligible dependant should normally be considered up to five years from the date of death or retirement on medical grounds taking place on or after 01st November, 2014 and decision to be taken on merit in each case.

The submission of Sri T.Ramulu, learned counsel for the appellants, is that, in the light of Clause (8) of the Scheme, it is only dependants of employees, who died on or after 01.11.2014, who were entitled to be considered for compassionate appointment; and, since the 1st respondent-writ petitioner’s father died prior thereto on 02.04.2011, the 1st respondent-writ petitioner is not entitled to be considered for appointment on compassionate grounds.

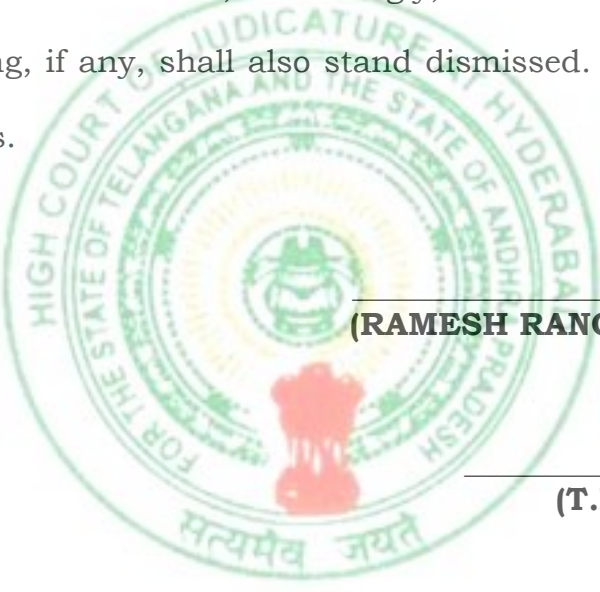
In the order under appeal, the Learned Single judge observed that Clause (1) of the Scheme deals with coverage of the scheme and Clause (8) with the time limit for considering applications; Clause (8) would apply only in respect of persons who make applications for appointment on compassionate grounds on the ground of retirement on medical grounds taking place on or after 01.11.2014; Clause (8) does not

stipulate that even applications for employment from eligible dependants, claiming compassionate appointment on the basis of the death of the parent would have to be considered only in cases “where the said death occurred on or after 01.11.2014”; Clause(8) does not contain any such requirement; as long as the application for employment under the Scheme is made within five years from the date of death of the parent, the said application should be considered, and cannot be thrown out; the Clause dealing with the time limit for considering application cannot control the clause dealing with the coverage Clause i.e Clause (1), and the eligibility of the 1st respondent-writ petitioner to the benefit of the scheme; since Clause (8) does not specifically state that the death of the parent should have occurred on or after 01.11.2014, the said Clause cannot be pressed into service to deny appointment on compassionate grounds; the 1st respondent-writ petitioner had not sought appointment from a date anterior to 01.11.2014, on which date the scheme came into force; and, therefore, his application should be considered in terms of the Scheme.

Clause (8) of the Scheme stipulates that application for employment under the scheme from eligible dependants should be considered upto five years from the date of death and, as the 1st respondent-writ petitioner’s father died on 02.04.2011, his application was required to be considered within five years. In the present case, the application was submitted by the 1st respondent-writ petitioner on 29.10.2015 well within the five years limit specified in Clause (8) of the Scheme. As has been rightly observed by the Learned Single Judge, Clause (8) of the Scheme does not stipulate that the date of death should have occurred only after 01.11.2014. All that Clause (8), when read in conjunction with Clause (1) of the Scheme, stipulates is that, even in cases of death of an employee before 01.11.2014, if an

application by a dependant, is made within five years from the date of the death of the deceased, the request for compassionate appointment can be considered only on or after 01.11.2014, and not prior thereto. The 1st respondent-writ petitioner's application for compassionate appointment is dated 29.10.2015 and it is only after that date can his application be considered, and not from 02.04.2011 when his father, a permanent employee of the Corporation, died.

In an intra-court appeal, under Clause 15 of the Letters patent, interference is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal. The Writ Appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.



(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

18th July, 2017
JSU

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE T.RAJANI**



Writ Appeal No.173 of 2017

Date: 18.07.2017

JSU