

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE MS. JUSTICE J. UMA DEVI

WRIT PETITION No. 45709 of 2016

ORDER: (*Per VRS,J*)

The petitioner, who was appointed on compassionate grounds as Process Server/Field Assistant/Typist/Examiner/Copyist, has come up with the present writ petition, seeking a direction to the respondents to consider his case for appointment to the post of Junior Assistant.

2. Heard Mr. P. Gangaiah Naidu, learned senior counsel appearing for the petitioner, and Mr. Swaroop Oorilla, learned standing counsel for the High Court appearing for the respondents.

3. The petitioner's father, who was working as Field Assistant in the District Court, Chittoor, died in harness on 22.01.2011, leaving behind his widow, two sons and a daughter. The petitioner was the elder of the two sons, but the younger son, who had not crossed beyond the 7th standard, sought appointment on compassionate grounds and he was, accordingly, appointed on 29.03.2011. But, to the misfortune of the family, the petitioner's younger brother died on 28.10.2015. Finding that the purpose of giving appointment on compassionate grounds was lost, the respondents considered the case of the petitioner sympathetically and appointed him on compassionate grounds as Process Server. After joining service, the petitioner made

representations for considering him to one of the posts in the Judicial Ministerial Service, namely, the post of Junior Assistant or Field Assistant or Typist or Examiner or Copyist, on the ground that he is qualified with an undergraduate Degree in Science, a Master's Degree in Business Administration, a post-graduation Diploma in Computer Applications, and a pass in Typewriting Lower Grade. Since his request was not considered, the petitioner is before us.

4. Though Mr. Swaroop Oorilla, learned standing counsel appearing for the respondents, is technically right in his contention that the very appointment granted to the petitioner on compassionate grounds was not in tune with the Rules and in tune with the decision of the Full Bench of this Court in *Pakam Srinivasulu Vs. Registrar (Vigilance), High Court of A.P. and another*¹, we are of the view that the stage has now crossed. The family appears to have been struck by successive calamities. Therefore, today it is futile to put the very appointment of the petitioner against him. The fact remains that the younger brother, to whom compassionate appointment was granted, died within four weeks, again plunging the family in different types of crises. Therefore, the exercise of the discretion at that time for the grant of appointment to the petitioner cannot be questioned.

5. Coming to the claim now made, the post of Process Server is in the Andhra Pradesh Last Grade Service. The qualifications that the petitioner possesses are already detailed above. While granting

¹ 2002 (1) ALT 204 (F.B.)

appointment to a person, the requirement of the employer as well as the fitness of the employee will have to meet at a point for the benefit of both sides. If viewed from such angle, the petitioner's services probably could be better utilized in the Judicial Ministerial Service rather than in the Last Grade Service. Therefore, even from the point of view of institutional interest, if not for the benefit of the petitioner, his request may have to be considered sympathetically.

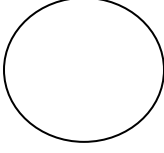
6. Therefore, the Writ Petition is disposed of, directing the respondents to consider the request of the petitioner and pass appropriate orders, in tune with the latest Circular issued by the 1st respondent in ROC No.211/2017-C.6, dated 01.02.2017, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J.

8th March, 2017
cbs



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