

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SMT. JUSTICE K.VIJAYA LAKSHMI

WRIT APPEAL No. 1476 OF 2017

DATED 09TH OCTOBER, 2017

Between:

The Andhra Pradesh State Road Transport Corporation,
Rep. by its Chairman & Managing Director,
Nehru Bus-Station, Vijayawada,
Krishna District, and others

... Appellants

AND

S.Kiranmai

... Respondent

Counsel for the appellants

:

Sri A.Rama Rao

Counsel for the respondent

:

Sri A.G.Satyanarayana Rao



THE COURT MADE THE FOLLOWING

JUDGMENT: *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

This Writ Appeal arises out of order dated 27-06-2016 in W.P.No. 12970 of 2016, whereby the learned single judge "allowed" the Writ Petition filed by the respondent herein.

2. The brief facts leading to the filing of the Writ Appeal are that the husband of the respondent was selected for the post of contract driver in the year 2008 by a selection committee constituted under A.P.S.R.T.C. Employees (Recruitment) Regulations, 1966. He was appointed as contract driver in Chittoor-I Depot on 08-10-2009. He has died while in service on 20-02-2012 leaving behind him the respondent and two minor children. The respondent applied for appointment under compassionate appointment scheme introduced by the appellants. After considering her case, she was asked to give her willingness for being appointed as R.T.C. Constable. The respondent has accordingly given her consent within the stipulated time. Following an interview held on 23-01-2016, the respondent was provisionally selected for the post of R.T.C. Constable and was asked to undergo physical efficiency test. She was also qualified in the said test and she was directed to undergo medical examination vide letter dated 23-03-2016. At that stage, the respondent was informed that she is not entitled for being appointed under compassionate appointment scheme as her husband was only a contract employee. Feeling aggrieved by denial of employment to her, the respondent filed the aforementioned Writ Petition. The Writ Petition was allowed by the learned single judge without the appellants filing a counter affidavit however after hearing their standing counsel. The learned judge has placed on record the submission of learned standing counsel that the settlement arrived at with the Employees Union under Section 12 (3) of the Industrial Disputes Act, 1947, on 03-08-2013 extending the scheme of compassionate appointment to

the eligible dependents of deceased contract employees was not approved by the Board of Directors. However, at the hearing, Sri A.Rama Rao, learned standing counsel for A.P.S.R.T.C., submitted that it is the Government which has not approved the settlement and that therefore it is not enforceable. After taking note of the submission of learned standing counsel about non-approval of the settlement, the learned judge "allowed" the Writ Petition in the following manner:

"However, in view of process of selection undergone by the petitioner, the respondents are directed to consider the case of the petitioner for appointment to the post of RTC Constable under compassionate ground in view of the settlement arrived at on 03-08-2013 and pass appropriate orders within a period of three months from the date of receipt of a copy of this order."

We find from the order of the learned single judge that the issue whether the settlement dated 03-08-2013 is enforceable or not has not been adjudicated. The learned judge has also not declared as to whether any enforceable right has accrued to the respondent under the said settlement. Further, an innocuous direction was issued by the learned single judge that the appellants must consider the case of the petitioner for appointment to the post of R.T.C. Constable under compassionate appointment scheme in pursuance of the settlement dated 03-08-2013 and "pass appropriate orders" within a period of three months.

3. At the hearing, learned standing counsel for the appellants has brought to our notice that the order of the learned single judge has worked itself out with the passing of "appropriate orders" by the Regional Manager, Tirupati Region, on 31-08-2016. When we asked him as to the necessity for the appellants to file this Writ Appeal when the order of the learned single judge was claimed to be

duly complied with, he has informed us that in a contempt petition filed for purported non-implementation of the order under appeal, the learned single judge convicted appellant No. 2 and sentenced him to pay fine and that an appeal is pending.

4. In our opinion, under the order under appeal, the right of the respondent for her appointment on compassionate ground has not been adjudicated. Instead, the learned judge merely directed the appellants to consider the case of the respondent and pass 'appropriate' orders. What we understand from the expression "appropriate orders" in the order of the learned single judge is that a discretion is vested on the appellants to pass orders either way, more so in the absence of a finding rendered by the learned single judge that a right came to have accrued to the respondent under the said settlement. If the appellants feel that the order of the learned single judge was not violated, they are free to pursue the appeal already filed by them.

5. In the light of the above discussion, we are of the opinion that as no order adverse to the interests of the appellants was passed, in that, no specific finding was rendered by the learned single judge that the respondent is entitled to compassionate appointment, there is no need to interfere with the said order except to the extent of the result portion of the order in the Writ Petition. We accordingly modify the order of the learned single judge under appeal by substituting the word 'disposed of' for the word 'allowed' in the last para of the order.

6. Subject to the above observations and modifications, the Writ Appeal is disposed of.

7. As a sequel to disposal of the Writ Appeal, W.A.M.P.No. 2743 of 2017 shall stand closed as infructuous.

C.V.NAGARJUNA REDDY, J.

K.VIJAYA LAKSHMI, J.

Date: 09-10-2017.

JSK

