

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
and
THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Writ Petition No.20759 of 2017

ORDER: (Oral)

(Per Honourable Sri Justice Suresh Kumar Kait)

Vide the present petition the petitioner has challenged the order dated 11.11.2016 in O.A.No.6942 of 2013 passed by the learned Andhra Pradesh Administrative Tribunal, whereby the application filed by the petitioner under Section 19 of the Administrative Tribunals Act, 1985 has been dismissed.

2. Brief facts of the case are that the father of the petitioner, who was working as Watchman in the Office of the Assistant Director of Fisheries, Narsipatnam, Visakhapatnam District, died in harness on 20.11.2010. As stated in the instant petition, the petitioner was married, however, her husband is not employed and they all live as joint family in her father's house. Due to sudden death of petitioner's father, their family was shattered. The petitioner has no other source of income. She has two children and mother (wife of the deceased) to look after. The petitioner studied up to 10th class and unemployed. Petitioner's mother has approached the Joint Director of Fisheries, Visakhapatnam and gave application dated 27.12.2010 to consider the petitioner for compensatory appointment. However, when the application was pending, one stranger by name, Surya Rao, who has

no *locus standi* and who is not at all affected party and inimical to family of the petitioner, made complaint on 10.1.2011 stating that the petitioner is not daughter of the deceased. After receiving complaint, the 3rd respondent, to clarify the issue, ordered enquiry. The 5th respondent conducted enquiry and submitted report to 4th respondent on 11.2.2011 stating that the petitioner is the only daughter of the deceased late Poli Reddy. But reasons best known to them, they called 6th respondent to conduct further enquiry. However, without giving any notice to the petitioner and without enquiring with relatives and neighbours of the petitioner, he had concluded the enquiry and reported that the petitioner is not natural daughter of the deceased and there was no legal adoption of the petitioner.

3. Learned counsel appearing on behalf of the petitioner submits that as there was no response from the respondents, the petitioner gave application to the 4th respondent on 16.5.2012 by enclosing relevant documents and school records to show that the petitioner is the daughter of the deceased. The 6th respondent also issued proper person certificate declaring petitioner's mother and the petitioner as proper persons.

4. Learned counsel further submits that the 3rd respondent, without considering her contentions, had rejected the application vide proceedings Lr.No.1799/A/2010, dated 15.3.2013. Aggrieved by the same, the petitioner along with his mother filed O.A.No.6942 of 2013 before the Hon'ble Tribunal, however, the Tribunal dismissed the

same on the ground that the petitioner had not made application within time and she is not natural daughter of the deceased and there is no legal adoption.

5. Learned counsel appearing on behalf of respondents submits that the petitioner did not file the adoption deed regarding her adoption by the deceased. In the absence of the same, the respondents cannot come to the conclusion that the petitioner is adopted daughter of the deceased. Therefore, she is not entitled for compensatory appointment.

6. On a perusal of the order passed by the learned Tribunal in O.A.No.6942 of 2013 dated 11.11.2016, it is clear that in the proceedings Lr.No.1799/A/2010, dated 15.3.2013, there was objection on the petitioner - second applicant (before the tribunal) being daughter of late Poli Reddy, therefore, Tahsildar, Visakhapatnam Urban was directed to make enquiry and submit report. Accordingly, he submitted a report stating that the second applicant (petitioner herein) is not legally adopted daughter of late Poli Reddy and she is wife of D.Ramana, an Auto Driver. Accordingly, the learned Tribunal has come to the conclusion that the second applicant (petitioner herein) did not file birth certificate to show as to who are natural parents of the second applicant (petitioner herein). If Poli Reddy is not natural father of the second applicant, then there should have been legal adoption of the second applicant by Poli Reddy. As per the

report of the Tahsildar, Visakhapatnam, the second applicant (petitioner herein) is not legally adopted by late Poli Reddy.

7. During the pendency of the present petition, with the permission of this Court, the petitioner has filed material documents. Page 44 of material papers is 'Record Sheet Appendix 3 No.' issued by Head Mistress of MC Elementary School, CDM Dondaparthi, Visakhapatnam, which establishes that the date of birth of the petitioner is 30.5.1986 and name of father of the petitioner is Poli Reddy. Her date of admission was 18.6.1991 and she was studying Class-I. Page 45 of the material papers is 'Study-cum-Conduct Certificate', issued by Head of the Institution, Nehru Municipal Corporation Girls High School, Visakhapatnam, dated 6.1.2011, which certifies that the petitioner is daughter of P.Poli Reddy and studied in their school from 1997-1998 to 2001-2002 from classes VI to X. In addition to above, page 48 of the material papers is 'application for admission in the high school', signed by the deceased, which establishes that date of birth of the petitioner is 30.5.1986 and father of the petitioner is Poli Reddy and petitioner is living with Poli Reddy. Page 51 of the material papers is 'Secondary School Certificate', issued by the Andhra Pradesh Open School Society on 27.12.2013, where the father of the petitioner is mentioned as Poli Reddy and her mother's name is also mentioned as Appalanarasamma. Page 53 of the material papers is 'L.I.C. policy' taken in the name of the petitioner on 18.3.2008 before the death of the deceased, who died

in the year 2010. It is admitted fact that these documents were not before the Tribunal, however, the Tribunal only relied upon the report submitted by the Tahsildar.

8. As per the Hindu Adoption and Maintenance Act, 1956, neither adoption deed nor registration of the same is required, however, to prove valid adoption, it would be necessary to bring on records that there should be an actual giving and taking ceremony. From the documents mentioned above it is proved that the deceased died in the year 2010 and the petitioner was adopted long back before his death.

9. In case of *M. Gurudas v. Rasaranjan*¹, while dealing with the similar issue, the learned Apex Court held that it would be necessary to prove on records that there had been an actual giving and taking ceremony. In the case in hand, the record shows that the petitioner was adopted. In every record of school, as mentioned above, petitioner's father's name is mentioned as Poli Reddy, deceased ex-employee of the Respondent-Department. Therefore, we have no hesitation to say that the petitioner is adopted daughter of Poli Reddy.

10. Accordingly, the order dated 11.11.2016 in O.A.No.6942 of 2013 passed by the learned Andhra Pradesh Administrative Tribunal is hereby set aside and respondents are directed to consider the case of the petitioner for compensatory appointment, if she is otherwise eligible. We further direct, the entire process shall be completed within four weeks from the date of receipt of a copy of the order.

¹ AIR 2006 SC 3275

11. The Writ Petition is accordingly allowed. No order as to costs.
12. Miscellaneous petitions, if any, pending shall stand closed.

SURESH KUMAR KAIT, J

U. DURGA PRASAD RAO, J

Date: 13.07.2017

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