

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.15996 of 2013

ORDER:

Heard.

2. The present Writ Petition came to be filed seeking issuance of writ of mandamus declaring the inaction of the respondents in considering the representation made by the petitioner for appointment under compassionate grounds as illegal, arbitrary, unconstitutional and violative of Articles 14 and 21 of the Constitution of India.

3. The averments in the affidavit filed in support of the writ petition would show that the petitioner is the son of one A.Lakshmi Rajyam, who was an employee of respondent-corporation. It is stated that the employee joined on duty on 01.03.1979 and rendered his services upto 30.11.2010, without any remark from the superiors. As he could not attend to his duties due to ill-health, he was removed from service on 30.11.2010. It is stated that the father of the petitioner died on 16.02.2012, leaving behind the petitioner, his mother and sisters as legal heirs. Subsequently, the petitioner sent a representation to respondent Nos.2 to 5 seeking appointment on compassionate grounds, but they failed to consider the same. The inaction of the respondents lead to filing of the present writ petition.

4. The main ground urged by the learned counsel for the petitioner is that though the petitioner is entitled for appointment on compassionate grounds in view of G.O.Ms.No.2, wherein the State Government accorded permission to provide compassionate appointments to the dependants of the deceased employees the respondents are not considering his request. Further, the bread winner scheme initiated for the purpose of safeguarding

the interest of the dependents of deceased employees, who rendered services to the respondent-corporation, was also not considered by the respondents.

5. A counter came to be filed disputing the averments made in the writ affidavit. It is stated that the father of the petitioner was removed from service on 30.11.2010 on the ground of unauthorized absence from 18.05.2010 to 06.07.2010, without any intimation to the superior authorities. It is further stated that the employee was served with a charge sheet on 09.07.2010 to which the employee submitted his explanation on 20.09.2010, which was not convincing. Thereafter, an enquiry was conducted, nominating Dy. Superintendent (P)/KTDM, as enquiry officer. Though the father of the petitioner was informed to attend the enquiry on 22<sup>nd</sup>, 24<sup>th</sup>, 26.10.2010 and 04.11.2010, but he failed to attend the enquiry proceedings on all the four occasions. Hence an ex-parte enquiry was conducted and a report dated 06.11.2010 was submitted to the Depot Manager, Kothagudem, against the employee. Subsequently, the employee was asked to file his objections to the enquiry report on 08.11.2010, but he submitted his explanation on 15.11.2010. On perusing the report and not being satisfied with the explanation given by the employee, the Depot Manager confirmed the charges leveled against the employee and accordingly issued a show cause notice of removal from service on 16.11.2010. The said show cause notice was also acknowledged by the employee on 20.11.2010, but failed to submit his explanation. Hence, the proceedings were issued removing him from the service with immediate effect. It is further stated that the said G.O. and the Bread Winner Scheme are applicable only to the dependants of the deceased employee, but not for the dependants of removed employees. No reply is filed disputing the contents of the counter affidavit.

6. It is to be noted that though the father of the petitioner has put in considerable service, in the respondent-corporation, but the same cannot be made the basis for providing compassionate appointment as the father of the petitioner was not an employee of the corporation on the date of his death. It is to be noted that the deceased was only an ex-employee. Further, it is not a case where the father of the petitioner took voluntary retirement and thereafter he died. In the instant case, the father of the petitioner was dismissed from service in the year 2010, after following the process of law and two years thereafter, he died. Ergo, it cannot be said that there was violation of G.O.Ms.No.2 or non-application of Bread Winner Scheme. Hence, the question of considering the representation made by petitioner seeking compassionate appointment would not arise and the writ petition is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. No costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.



JUSTICE C. PRAVEEN KUMAR

20.04.2017  
vnb