

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

WRIT APPEAL No.614 of 2017

Date:07.8.2017

Between:

T.Kamalamma,
W/o Late T.Nagaiah

..... Appellant

And:

T.Vasudeva,
S/o Late T.Papaiah
aAnd five others.

.....Respondents

Counsel for the appellant: Mrs. A.Padma

Counsel for respondent No.1: Mr. Shaik Mohammed Ismail

The Court made the following:

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

This Writ Appeal is filed by the appellant, who is a third party to Writ Petition No.46864 of 2016, feeling aggrieved by order, dated 03.01.2017, of the learned single Judge, whereby he has disposed of the said Writ Petition filed by respondent No.1 with a direction to respondent No.6 to consider the former's representation, dated 01.8.2016, for compassionate appointment within a period of eight weeks from the date of receipt of a copy of that order.

The appellant has pleaded that she is the second wife of the deceased-Tekuri Nagaiah, who died while in service as Attender in Information and Public Relations Department, Kadapa, having been legally wedded to him after the death of his first wife. Within a few days of the death of her husband, the appellant has made an application on 10.5.2010, followed by many applications, the last of which is dated 15.11.2010 for appointing her in place of her deceased husband under compassionate appointment scheme. It is further pleaded that questioning the return of her application, dated 19.3.2014, she has filed O.A.No.3508 of 2014, wherein an interim order, dated 05.6.2014, was passed by the Andhra Pradesh Administrative Tribunal at Hyderabad (for short 'the Tribunal') directing the official respondents to consider her

application, dated 19.3.2014, and dispose of the same. Purporting to act on the said order of the Tribunal, respondent No.6 addressed letter, dated 24.6.2014, to the Government Pleader informing the latter that the appellant's application for compassionate appointment was rejected. Questioning the said rejection order, the appellant is stated to have filed an O.A. before the Tribunal, which is pending at S.R. stage. In the meantime, respondent No.1 filed Writ Petition No.46864 of 2016 for a *Mandamus* to declare the action of the official respondents in not considering his representation, dated 01.8.2016, for compassionate appointment as illegal. The learned single Judge has disposed of the said Writ Petition by the impugned order with the direction to respondent No.6 to consider the said representation of respondent No.1 within eight weeks and communicate the decision thereon to him.

The grievance of the appellant is that while she was pursuing her applications for compassionate appointment, being the legally wedded wife of the deceased-employee, respondent No.1, without even impleading her as respondent in Writ Petition No.46864 of 2016, has obtained the impugned order behind her back for consideration of his representation for compassionate appointment and thereby, her interests are affected.

The fact that the appellant has filed an O.A. against the order of rejection of her applications for compassionate appointment and that the same is pending at S.R. stage is not in serious dispute. When there are competing claims among the legal heirs of the deceased-employee, respondent No.6 has to consider both the claims and take an informed decision as to who, between the two, is entitled to appointment under the compassionate scheme.

As the O.A. filed by the appellant is stated to be pending, till the same is disposed of by the Tribunal, it is not appropriate to consider the claim of respondent No.1 independent of the said O.A.

Mrs. A.Padma, the learned counsel for the appellant, informed the Court that respondent No.1 was also arrayed as a respondent in the O.A. filed by her client.

In the above circumstances, the order under appeal is set aside. The appellant is given two months' time to get the O.A. filed by her numbered. If within the stipulated time, the O.A is numbered, the claim of respondent No.1 shall not be considered by respondent No.6 till the said O.A. is disposed of by the Tribunal in accordance with law. If the O.A. is not numbered within the stipulated time, respondent No.6 shall be free to

consider the case of respondent No.1 without reference to the pendency of the said O.A.

Subject to the above observations and directions, the Writ Appeal is allowed.

As a sequel to disposal of the Writ Appeal, WAMP.No.1239 of 2017 filed by the appellant for interim relief is disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE G.SHYAM PRASAD

07th August 2017
DR

