

*IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH*

WRIT PETITION No.32479 of 2017

Between:

C.Shaik Masood Saheb,
S/o Late Shaik Mahaboob Basha

... Petitioner

And

The State of A.P., repled by its Principal
Secretary, Social Welfare Department,
Velagapudi and four others.

... Respondents

JUDGMENT PRONOUNCED ON 22.9.2017

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SMT JUSTICE K.VIJAYA LAKSHMI

1. Whether Reporters of Local newspapers : No
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : Yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : Yes

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE K.VIJAYA LAKSHMI

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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< Gist:

> Head Note:

! Counsel for the petitioner: Ms. A.Vijaya Lakshmi

^ Counsel for the Respondents: GP for Services (AP)

? Cases Referred:

(2010) 1 SCC (L&S) 281

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Counsel for the petitioner: Ms. A.Vijaya Lakshmi

Counsel for the respondents: GP for Services (AP)

The Court made the following:

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

This Writ Petition is filed for *Certiorari* to quash order, dated 31.5.2007, in Original Application No.3388 of 2016 on the file of the Andhra Pradesh Administrative Tribunal at Hyderabad (for short 'the Tribunal').

The petitioner claims that he was adopted by one Shaik Mahaboob Basha, S/o Late Abdul Azeez Saheb (for short "the deceased employee") at the age of 10 years. The alleged adoptive father worked as Kamati (Helper) in Government Social Welfare Boys Hostel, Chukkalur Village, Tadipatri Mandal, Anantapur District. While in service, he died in a train accident on 24.01.2014. That during his life time, the deceased employee has nominated the petitioner for his contributory pension. The petitioner caused a legal notice issued to respondent Nos.4 and 5 seeking his appointment on compassionate ground in place of the deceased employee. He has filed O.A.No.110 of 2014 in the Court of the Principal Senior Civil Judge, Anantapur for issue of Succession Certificate and by order, dated 30.10.2014, the said Court has granted the Succession Certificate in his favour. Respondent No.4 addressed letter, dated 06.01.2015, to the Revenue Divisional Officer, Anantapur. The Tahsildar, Anantapur conducted an enquiry and submitted a report to the Revenue Divisional Officer, Anantapur, based on which, the latter has submitted a report on 27.8.2015 to respondent No.4, who, in turn, released the death benefits of the deceased employee to the

petitioner. As his claim for compassionate appointment was not considered by the respondents, he approached the Tribunal by filing O.A.No.3388 of 2016. The respondents have opposed the said O.A by denying his claim that he was legally adopted by the deceased employee. They have also placed reliance on G.O.Ms.No.612, dated 30.10.1991, as per which, to be entitled for compassionate appointment, a person must prove that he was legally adopted by the deceased employee at least five years prior to his death. On finding that the petitioner failed to produce any documentary proof in support of his plea that he was legally adopted by the deceased employee, the Tribunal dismissed the said O.A. While dealing with the Succession Certificate, based on which, the petitioner made his claim, the Tribunal relied upon the judgment of the Apex Court in *State of Chhattisgarh and Others Vs. Dhirjo Kumar Sengar*¹, wherein it was held as under:-

“A Succession Certificate can be granted in favour of any person. It may be granted to an heir or a nominee. By reason of grant of such certificate, a persons in whose favour succession certificate is granted becomes a trustee to distribute the amount payable by the deceased to his heirs and legal representatives. He did not derive any right thereunder. The Succession Certificate merely enabled him to collect the dues to the deceased. No status was conferred on him thereby. It did not prove any relationship between the deceased and the applicant. Even otherwise, the respondent and his

¹ (2010) 1 SCC (L&S) 281

father were entitled to the dues being his heirs and legal representatives.”

Considering the submissions of the learned counsel for the petitioner and the reasons assigned by the Tribunal in the impugned order, we are of the opinion that the petitioner failed to prove that he was legally adopted by the deceased employee. As held by the Supreme Court, a Succession Certificate would not prove the relationship between the deceased and the holder of the Succession Certificate. It would only enable him to collect the dues payable to the deceased employee by treating him as a trustee.

More over, to be entitled for compassionate appointment, a person must prove that he was adopted as per law at least five years prior to the death of the deceased employee, as envisaged under G.O.Ms.No.612, dated 30.11.1991. The petitioner failed to satisfy this requirement.

Having regard to the facts of the case and the position in law, as discussed above, we do not find any merit in this Writ Petition and the same is, accordingly, dismissed.

As a sequel, WPMP.No.40404 of 2017 stands dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE K.VIJAYA LAKSHMI

22nd September 2017

Note: LR copies to be marked.

B/o

dr