

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION (TR) No.720 OF 2017

Dated:26.07.2017

Between:

Kavali Krishnaiah, S/o. Kanakaiah,
Aged about 27 years, Occ: Unemployee,
R/o. Jinnaram Village, Gandeed Mandal,
Ranga Reddy District, Andhra Pradesh

.. Petitioner

AND

The Government of Andhra Pradesh,
Rep., by its Principal Secretary,
Revenue Department, A.P., Secretariat
Buildings, Hyderabad and others

.. Respondents



The Court made the following:

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ORDER:

Petitioner claims to be grand son of Kavali Laxmaiah. He challenges the order of appointment dated 01.03.2013 appointing Kavali Kumuraiah, the 6th respondent, as Village Servant in Jinnaram Village. The 6th respondent was appointed in accordance with Rule 8(3) of the Andhra Pradesh Village Servant Rules, 2005 (for short, 'the Rules') on account of death of his grand father, by name, Kavali Narasaiah.

2. Heard Sri P. Lakshmana Rao, learned counsel for the petitioner, and learned Government Pleader for Services – II.

3. Learned counsel for the petitioner submits that illegally the 6th respondent was appointed, but he is no way concerned with Kavali Narasaiah's family and false claim was made as dependent and secured employment. He further submits that in accordance with the law laid down by the Supreme Court in several decisions referred to in the grounds urged in support of the prayer, right is vested in the petitioner to seek employment on compassionate grounds on account of death of Kavali Narasaiah and the same is illegally denied. Learned counsel also sought to contend that a bare perusal of the order impugned would show that recruitment notification was actually issued on 03.04.2013 and much prior to the date i.e., 01.03.2013 the 6th respondent was appointed and this itself would show that illegal appointment was made.

4. As noted above, the order impugned is issued appointing the 6th respondent in exercise of power under Rule 8 (3) of the Rules

on account of death of Kavali Narasaiah, who was earlier working as Village Servant and died on 18.01.2007. Rule 8 of the Rules provides for such appointment. According to sub-rule (3) thereof, spouse/dependant children of the Village Servant who died in harness before attaining the age of 60 years can be appointed as Village Servant provided that there is no other earning member in the family of such deceased Village Servant and an application is to be made in this regard within a period of one year from the date of death of such Village Servant. On 30.04.2011, advertisement/notice was issued calling for objections, if any, on the application made by the 6th respondent for provision of employment under Rule 8 (3) of the Rules and 15 days time was granted for raising objections. The order impugned reads that no objections were filed and therefore the claim of the 6th respondent was accepted and was appointed as Village Servant.

5. Petitioner has not raised any objections in response to the notice issued on 30.04.2011. A reading of the report, dated 21.05.2011, of the Tahsildar would disclose that the 6th respondent was adopted by the deceased employee. The nature of adoption and validity of the same is not under challenge and cannot be gone into.

6. To appreciate the grounds urged by the petitioner, it is necessary to see the facts on record. The record would disclose that petitioner is no way concerned with the family.

7. In service disputes public interest litigation is not maintainable. Thus, unless the petitioner satisfies that he is also dependant of the deceased employee and erroneously he was

denied appointment and ineligible person was granted appointment, no relief can be granted. More particularly the Administrative Tribunal has no jurisdiction to entertain public interest litigation in service matters under the Administrative Tribunals Act, 1985. This petition was instituted as O.A. before the Andhra Pradesh Administrative Tribunal invoking the jurisdiction of the Tribunal constituted under Section 15 of the Administrative Tribunals Act and O.A. was filed under Section 19 of the Act.

8. Repeatedly the Court has asked learned counsel for the petitioner to explain as to how the petitioner is related to the deceased employee. But, learned counsel is unable to state clearly about the relationship. However, the averment made in paragraph No.6 (a) of the O.A. would disclose that grand father of the petitioner and grand father of the 6th respondent worked as Kavalkars in Jinnaram Village. Except the said averment nothing else is stated to establish relationship.

9. The family name appears to be same, but the relationship is not explained. Be that as it may, assuming that petitioner is a dependant of ex-employee, in response to the notice issued on 30.04.2011, he ought to have filed his objections. Further, if petitioner has any objection on the claim of the 6th respondent as dependant of the deceased employee by placing reliance on adoption deed, petitioner has to avail appropriate remedy as available in civil law.

10. Thus, not providing appointment on compassionate grounds to the petitioner cannot be said as in violation of several decisions

referred to in the grounds. In view of the provision contained in Rule 8 (3) of the Rules, I do not see any illegality in the order impugned appointing the 6th respondent, more so when no objections were filed even though sufficient opportunity was given to the petitioner.

11. Furthermore, learned counsel for the petitioner sought to contend that in the order of appointment, the notification referred to is shown as issued on 03.04.2013 and therefore appointment could not have been made on 01.03.2013. It is appropriate to note that the proceedings of the appointment order and the notification are one and the same i.e., A/145/2011 and notice was issued on 30.04.2011. In the body of the order of appointment, it is specifically referred to in paragraph No.3 that no objections were filed. Petitioner cannot seek to take advantage of a typographical mistake in mentioning the year of the order and date of issuance of the proceedings, more so when petitioner himself enclosed notice dated 30.04.2011 as annexure 'A'.

12. Therefore, I do not see any merit in the Writ Petition (TR) and the same is liable to be dismissed. The Writ Petition (TR) is accordingly dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition (TR) shall stand closed.

P. NAVEEN RAO, J

Date:26.07.2017

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