

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

THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

and

THE HON'BLE SRI JUSTICE M. GANGA RAO

Writ Petition No.30205 of 2014

Between:

Union of India, Ministry of Mines, represented
By its Secretary, Department of Mines, Shastry
Bhavan, New Delhi and 6 others

... Petitioners

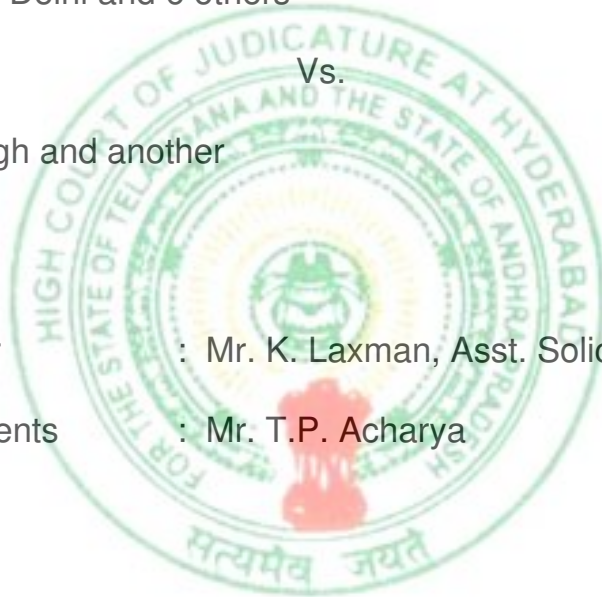
Vs.

T. Nitesh Singh and another

.. Respondents

For Petitioner : Mr. K. Laxman, Asst. Solicitor General

For Respondents : Mr. T.P. Acharya



HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE SRI JUSTICE M. GANGA RAO

Writ Petition No.30205 of 2014

ORDER: (V. Ramasubramanian, J)

The 1st respondent in this writ petition filed an Original Application in O.A.No.1204 of 2012, on the file of Central Administrative Tribunal, seeking a direction to the Union of India to appoint him on compassionate grounds. The application was allowed by the Tribunal by an order dated 08-08-2014.

2. Aggrieved by the said order, not only the Union of India but also the unofficial respondents have strangely joined together and come up with the above writ petition.

3. Heard Mr. K. Laxman, learned Assistant Solicitor General appearing for the petitioners 1 to 3. Mr. T.P. Acharya, learned counsel takes notice for the 1st respondent.

4. At the outset, we should point out that the petitioners 4 to 7 in this writ petition were impleaded as unofficial respondents 4 to 7 in the Original Application filed by the 1st respondent herein before the Central Administrative Tribunal. The claim of the 1st respondent herein before the Tribunal was actually pitted against the petitioners 4 to 7 herein. Therefore, the Union of India could not have filed the above writ petition, taking along with them, the unofficial respondents, who have a competing interest with the 1st respondent herein.

5. Be that as it may, the writ petition is completely devoid of merits, as can be seen from the following sequence of events:

- a) the 1st respondent's father, who was working as a cleaner/Multi Task Staff, died in harness on 21-08-2006, leaving behind him surviving his widow, the 1st respondent-son and a daughter;
- b) the 1st respondent made an application on 18-04-2007 for appointment on compassionate grounds;
- c) the Compassionate Appointment Committee constituted by the Government considered the cases of all persons, who had made applications for appointment on compassionate grounds, in a meeting held on 31-12-2009. Since there were less number of vacancies available for appointment on compassionate grounds than the number of persons, who were seeking such appointment, the Committee adopted a methodology of awarding points. Unfortunately, there were other persons, who secured more points than the 1st respondent in the meeting held on 31-12-2009. Therefore, the 1st respondent could not secure appointment;
- d) The committee again met for second time on 15-06-2010. In the meeting of the Committee, the names of the 1st respondent as well as the petitioners 4 to 7 herein were placed. Neither the petitioners 4 to 7 nor the 1st respondent were selected in the meeting held on 15-06-2010;
- e) After the second meeting, the 1st respondent moved the Central Administrative Tribunal questioning the wisdom of the committee in awarding marks. The said application was rejected; and
- f) The Committee again met for a third time on 06-02-2012. In the said meeting, the names of the petitioners 4 to 7 along with a few others were taken up for consideration. But the name of the 1st respondent was not taken up. Eventually, the petitioners 4 to 7 got appointed.

6. Therefore, challenging the non-consideration of his claim in the third meeting held on 06-02-2012, the 1st respondent filed O.A.1204 of 2012 on the file of the Tribunal. The Tribunal allowed the application and the Union of India is before us along with the contesting respondents.

7. The main thrust of the argument of the learned Assistant Solicitor General is that as per the order vide Department of Per. & Trg. O.M.No.14014/19/2002-Estt.(D), dated 05-05-2003, the name of a person seeking appointment on compassionate grounds, can be considered only in the meetings of the committee for a period of 3 years and that after 3 years, the name need not be considered any further. Particular reference is made to paragraph-3 of the said order dated 5.5.2003, which reads as follows:

“3. The maximum time a person's name can be kept under consideration for offering Compassionate Appointment will be three years, subject to the condition that the prescribed Committee has reviewed and certified the penurious condition of the applicant at the end of the first and the second year. After three years, if compassionate appointment is not possible to be offered to the applicant, his case will be finally closed, and will not be considered again.”

8. It appears that the order dated 5-5-2003 was later replaced by a new set of orders dated 26-07-2012. On the basis of the said order, it is contended by the learned Assistant Solicitor General that since a period of 3 years had elapsed both from the date of the death of the 1st respondent's father and from the date of the application made by him for compassionate appointment, the name of the 1st respondent could not have been considered in the meeting held on 06-12-2012; long after the expiry of 3 years.

9. But we do not think that the DOPT guidelines dated 05-05-2003, can be said to be of universal application and mandatory. The

reason is that at the time when a Government servant dies, it is not necessary that all his legal heirs are majors. In case there are children, who have not attained majority and in case they attained majority after a period of 3 years, paragraph 3 of the Government DOPT dated 5-5-2003 cannot be applied. Therefore, the order dated 5-5-2003 should not be taken to be mandatory and of universal application.

10. In any case, the date on which the 1st respondent made an application for compassionate appointment was 18-04-2007. Assuming that the DOPT order dated 05-05-2003 applies, the period of 3 years expired on 17-04-2010. But admittedly, the case of the petitioner was taken up in the second meeting held on 15-06-2010. Therefore, the Union of India itself has understood the DOPT order 05-05-2003 as not completely inviolable or mandatory.

11. In any case, the petitioners 4 to 7 are also persons who made applications, way back in the years 2007 or 2008. Their cases were taken up for consideration in the meeting held on 06-02-2012. Therefore, the Tribunal was right in allowing the application, and hence, we find no merits in the writ petition.

Therefore, the writ petition is dismissed. No costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

M. GANGA RAO, J

Date: 01-11-2017

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