

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

WRIT PETITION No.2189 of 2018

ORDER: (ORAL)

(Per Suresh Kumar Kait, J)

Vide the present petition, petitioner has assailed order dated 12.07.2016 passed by the Andhra Pradesh Administrative Tribunal in O.A.No.5214 of 2012, whereby the application filed by the petitioner under Section 19 of the Administrative Tribunals Act, 1985 has been dismissed.

2. The case of the petitioner is that since O.P.No.2 of 2005 filed by the 4th respondent for Succession Certificate to claim the assets of the deceased B.Yellaiah was dismissed by the competent civil court, the respondents ought not to have appointed the 4th respondent as Village Servant. If the petitioner is not the adopted daughter of the deceased B.Yellaiah, respondents would not have paid funeral expenses of Rs.2,000/- to her and, therefore, they are estopped from complaining that she is not the legal heir of B.Yellaiah.

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner herein, being the adopted daughter of the deceased B.Yellaiah, is entitled for compassionate appointment as per the Rules.

4. After considering the rival contentions of the parties, it has emerged and not in dispute that the petitioner is not the natural

daughter of the deceased B.Yellaiah. She claims to be his adopted daughter. However, there is no evidence whatsoever either before the Tribunal or this Court to show that she is the adopted daughter of the deceased B.Yellaiah. In O.P.No.2 of 2005, no finding was given to that effect.

5. It is not in dispute that she was not the petitioner in the O.P., mentioned above. Unless she establishes by cogent evidence that she is the adopted daughter of the deceased B.Yellaiah, she cannot claim compassionate appointment. Mere payment of Rs.2,000/- towards funeral expenses of the deceased B.Yellaiah to the petitioner, will not lead to the conclusion that she is his adopted daughter. In addition to the above, as per G.O.Ms.No.612, GA(Ser.A) Dept., dated 30.10.1991, any application for compassionate appointment has to be made within one year from the date of death of deceased employee, who died while in service, by the dependants. Though the deceased B.Yellaiah died in the year 2005, application for compassionate appointment was made in the year 2011, beyond one year.

6. More so, as per the counter-affidavit of the 3rd respondent filed before the Tribunal, it is clear that the 4th respondent was appointed as Village Servant of Husnabad in the vacancy caused due to the death of deceased B.Yeallaiah, after notifying the post in accordance with the Rules laid down in A.P. Village Servant Service Rules, 2005. In other words, he was initially appointed in the year 2005 and regularly recruited to the post in the year 2009. Since the said post has already

been filled up under compassionate appointment, we are of the considered opinion that the petitioner cannot claim compassionate appointment in the said post.

7. Finding no illegality or perversity in the order of the learned Tribunal, we hereby dismiss the writ petition. No order as to costs.

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

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

February 09, 2018
MRR

