

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.17442 OF 2001

ORDER:

Petitioner, who is a physically handicapped daughter of the deceased employee, who worked as Hindi Pandit in the fourth respondent-Sree Veerabramnendra Mission Aided UP School and died in harness, filed this writ petition seeking to issue a Writ of Mandamus declaring the action of the respondents in not considering the representation of the petitioner for compassionate appointment in any suitable post, as being illegal and arbitrary and consequently she seeks a direction to the respondents to consider the case of the petitioner for compassionate appointment in any suitable post as per her eligibility and qualification.

Brief facts of the case are that the father of the petitioner late V.Rama Chandrudu, who worked as Hindi Pandit Grade-II in the 4th respondent-School, died in harness on 20.08.1998, leaving behind his wife, two daughters (including the petitioner herein) and one son. Mother of the petitioner is an illiterate and her sister and brother are minors. Having become indigent due to sudden death of their father, petitioner submitted a representation on 04.11.1994 to the third respondent-The District Educational Officer to consider her case for appointment on compassionate grounds. Vide proceedings dated 10.12.1998, the District Educational Officer, rejected the case of the petitioner relying on G.O.Ms.No.30 Education dated 01.02.1994, Government Memo No.1366/Ser.IV-1/96-8 dated 04.07.1997 stating that the petitioner is not eligible to be provided with a job in Aided Upper Primary School, Anandashram, as there is no sanctioned post of

non-teaching in the said school and the petitioner is not eligible to be appointed as a Secondary Grade Teacher or Hindi Pandit Grade-II as she has passed only S.S.C. Thereafter, petitioner made another representation on 16.11.1998 to the second respondent-District Collector, who forwarded the same to the District Educational Officer to initiate necessary action. In turn, the District Educational Officer, forwarded the same to the 4th respondent-School. In reply, the school authorities vide letter dated 15.02.1999 informed the District Educational Officer that no non-teaching posts were sanctioned to the 4th respondent-School and the petitioner is not eligible to the post of Secondary Grade Teacher or Hindi Pandit Grade-II in the aided Primary School. Hence, she is not entitled to be appointed in the said post. However, the petitioner submitted another representation on 23.07.2001 to the District Educational Officer seeking compassionate appointment stating that she is a physically handicapped person, passed SSC in March, 1996 i.e. before expiry of her father, she passed Senior Secondary School examination held in May, 2001, she is pursuing B.Sc. II year and also stated to have got through Hindi Bhushan examination. Hence, she prayed that as per G.O.Ms.No.612 dated 30.01.1991, she is entitled to be considered her candidature for appointment to the lower teaching post carrying pay scale of Rs.1010-1800 in the Education Department or Educational Institutions under the control of the first respondent. It appears, the said representation was not considered and no orders were passed. Being aggrieved by the same, the present writ petition came to be filed.

Sri P.B.Vijay Kumar, learned counsel appearing for the petitioner, would contend that the father of the petitioner died in harness on 20.08.1998 while working as Hindi Pandit in the 4th respondent-school leaving behind, petitioner, her mother, her sister and brother (minors). They could not able to find income for their livelihood. Learned counsel would contend that as per government orders holding the field, the dependents of the deceased employee are eligible to be appointed on compassionate grounds in any suitable post, but the case of the petitioner was not properly considered by the respondents and her case was rejected on the ground that no non-teaching posts were sanctioned to the 4th respondent-school. If the petitioner is not eligible for appointment as SGT or Hindi Pandit Grade-II, she can be appointed in any suitable post in other institutions, under the control of the 1st respondent, for which there is no prohibition. Government issued several Government Orders for appointment of dependents of the deceased, for the purpose of providing immediate succour to the distressed family of the deceased. But, *in spite* of petitioner submitting several representations to the authorities for providing compassionate appointment, as her family is in distress condition, her case was not considered for appointment. After acquiring the higher qualifications, petitioner made another representation on 23.07.2001 seeking to consider her case for compassionate appointment. But, the respondents failed to provide any suitable post to the petitioner according to her educational qualifications. Petitioner being a physically handicapped person and dependent of the deceased employee, who died in harness leaving behind her illiterate mother, one sister and

one brother, who are minors, ought to have been provided with employment/job on compassionate grounds. The action of the respondents in not providing suitable employment on compassionate grounds is illegal and arbitrary and thus he seeks a direction to the respondents to consider the case of the petitioner for appointment on compassionate grounds in any suitable post.

The 4th respondent filed a counter, but none appeared on his behalf.

The 4th respondent, in his counter, stated that there is no non-teaching post available in the 4th respondent-School and petitioner is not eligible to be appointed as a Secondary Grade Teacher or Hindi Pandit. Hence, her case for compassionate appointment was rejected.

No counter is filed on behalf of respondents 1 to 3 *in spite of* granting several adjournments and none appeared on their behalf.

In the facts and circumstances of the case and in considered view of this Court, the father of the petitioner died in harness on 20.08.1998 while working as Hindi Pandit Grade-II in the 4th respondent-School. Immediately, thereafter, petitioner submitted a representation on 04.11.1998 to provide compassionate appointment to her as per G.O.Ms.No.612 dated 30.01.1991 stating that as per said G.O. she is entitled to be appointed on compassionate grounds in any suitable post according to her qualifications in any government Organization. Rejection of her request for appointment on compassionate grounds by the third respondent vide proceedings dated 10.12.1998 is illegal and amounts to non-consideration of the petitioner's case for compassionate appointment as per the

Government Orders holding the field, which were issued with the main motive of providing immediate succor to the distressed family of the deceased employee, under which the petitioner's family is now living in poverty and hunger, due to sudden demise of her father. The respondents rejected the request of the petitioner mainly on the ground that no non-teaching posts were sanctioned to the 4th respondent-school to accommodate the petitioner and the petitioner is not eligible for SGT or Hindi Pandit Grade-II posts, which were sanctioned and available in the 4th respondent-School.

In this context, it is apt to make a reference of G.O.Ms.No.25 General Administration (Services.A) Department dated 12.03.2015 as modified in G.O.Ms.No.112 General Administration (Ser.A) Department dated 18.08.2017 wherein the Government ordered as follows:

"5. Government, after careful examination of the matter and in partial modification of the orders issued in 5th read above, hereby order that conditional compassionate appointment shall be issued to the dependents (candidates) of deceased employees of subordinate offices who possess atleast Intermediate qualification to consider for the post of Jr. Assistant/Typist by giving reasonable time i.e., 5 years to acquire "Degree" qualification on par with HoDs/Directorates and Secretariat and 2 years time to qualify in the test i.e., Proficiency in Office Automation with the usage of computer and associated software conducted by the APPSC or recruiting agency (DSC) as the case may be on humanitarian grounds so as to enable the deceased family to maintain status in the Society. These instructions are applicable to Subordinate Offices i.e., District and Sub District Offices."

Thus, as can be seen from the above, if the dependent (candidate) who seeks appointment on compassionate grounds do not possess the requisite qualifications, conditional appointment shall be issued by giving reasonable time for acquiring the

requisite qualifications, to enable the deceased family to maintain minimum status in the Society.

In the case on hand, even the petitioner submitted another representation on 23.07.2001 after acquiring the higher qualifications. *In spite* of the same, her case was not considered by the respondents, which is illegal and arbitrary.

In these circumstances and as per G.O.Ms.No.25 dated 12.03.2015 as modified in G.O.Ms.No.112 dated 18.08.2017, this Court is of the view that the respondents are under obligation to provide compassionate appointment to the petitioner, who is a physically challenged person and dependent of the deceased employee who died in harness.

Hence, the first respondent is directed to consider the case of the petitioner and provide compassionate appointment to her in any suitable post as per her qualifications and eligibility in any of the Institutions under the control of the first respondent-Government, as per G.O.Ms.No.25 dated 12.03.2015 as modified in G.O.Ms.No.112 dated 18.08.2017. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

Accordingly, the Writ Petition is disposed of.

Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

(M.GANGA RAO, J)

.08.2018
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