

**HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE SRI JUSTICE M.GANGA RAO**

WRIT PETITION No. 3971 OF 2012

ORDER: *(Per Hon'ble Sri Justice Sanjay Kumar)*

The authorities of the erstwhile combined State of Andhra Pradesh filed this writ petition aggrieved by the order dated 20.10.2011 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad (for short 'the Tribunal') in O.A.No.740 of 2011.

2. The said O.A. was filed by the 1st respondent herein seeking compassionate appointment as a Bill Collector or to any other suitable post consequent upon the death of his father, G.Satyanarayana, who had expired on 12.02.1994 while working as a Non-Muster Roll (NMR) employee in the service of the State. This compassionate appointment was sought in terms of G.O.Ms.No.118, Finance and Planning (Fin. Wing-P.C.III) Department, dated 18.08.1999.

3. By the order dated 20.10.2011, the Tribunal held that the applicant in the O.A. could not be denied appointment on compassionate grounds on technicalities and accordingly directed the authorities to consider his case for appointment on regular basis, as per G.O.Ms.No.118 dated 18.08.1999, as per his eligibility and suitability. Aggrieved by these directions, the authorities filed the present writ petition.

4. By order dated 16.02.2012, this Court, while observing that it was not inclined to suspend the operation of the order under challenge in toto, directed that there should be stay of appointment of the 1st respondent/applicant on a regular basis as his case would have to be considered with regard to his eligibility as per G.O.Ms.No.118 dated 18.08.1999.

5. WVMP No.2300 of 2013 was filed by the 1st respondent/applicant to vacate the above order.

6. Heard the learned Government Pleader for Services-II, State of Telangana, and Sri Santhapur Satyanarayana Rao, learned counsel for the 1st respondent/applicant.

7. G.O.Ms.No.118 dated 18.08.1999 reflects the policy of the State to provide compassionate appointment to the dependant of a deceased Daily Wage/NMR/Consolidated Pay person/Contingent Worker on Full time basis or Part time employee. Such compassionate appointment was to be provided to the dependant if the deceased Daily Wage/NMR/Consolidated Pay person/Contingent Worker on Full time basis or Part time basis was fully eligible for regularization of his services under Section 7 of the Andhra Pradesh (Regulation of Appointments to Public Services and Rationalisation of Staff Pattern and Pay Structure) Act, 1994, read with G.O.Ms.No.212, Finance & Planning (FW.PC.III) Department, dated 22.04.1994.

8. It may be noted that the afore-stated first clause in the G.O. merely spoke of the deceased NMR or other such person being fully eligible for regularization of his services. However, when it comes to the second clause in the G.O., the Government stipulated that a regular vacancy must be available for deemed regularization of the deceased Daily Wage/NMR employee. It may be noted that the first clause only spoke of eligibility for regularization of the employee and did not bring in the concept of 'deemed regularization'. Be that as it may.

9. In so far as the case on hand is concerned, it is not in dispute that G.Satyanarayana, father of the 1st respondent/applicant, put in more than five years of service by 25.11.1993, the cut off date prescribed in G.O.Ms.No.212 dated 22.04.1994. He was therefore fully eligible and qualified for regularization of his services thereunder. This aspect of the matter is not even in dispute as the learned Government Pleader would only contend that no clear vacancy was available for his deemed regularization. It is also relevant to note that after the death of G.Satyanarayana on 12.02.1994, the authorities thought it appropriate to appoint the 1st respondent/applicant as a NMR Bill Collector on 13.02.1994. It is not in dispute that since the said date he is continuing in service as a NMR Bill Collector in Kallur Gram Panchayat of Khammam District.

10. Perusal of the order under challenge reflects that the Tribunal took note of the fact that G.Satyanarayana, the father of the 1st respondent/applicant, put in the requisite length of service to have his services regularized in terms of G.O.Ms.No.212 dated 22.04.1994 and granted relief.

11. As already pointed out, the inherent contradiction in G.O.Ms.No.118 dated 18.08.1999 cannot be interpreted to the detriment of the dependant of the deceased NMR or Daily Wage worker. When a welfare measure was sought to be given effect to by way of the said G.O., the terms thereof would also have to be construed accordingly. That apart, there is no getting over the fact that the State authorities thought it appropriate to provide employment to the 1st respondent/applicant immediately after the death of his father but only in the capacity of a NMR Bill Collector. In effect, the State authorities chose to extract the very same services that would be rendered by a regular Bill Collector from the 1st respondent/applicant but at a much cheaper cost as he was restricted to the capacity of a Non-Muster Roll employee. Being a model employer, it is not open to a welfare State to resort to such practices which constitute nothing short of rank exploitation of hapless citizens.

12. Given the afore-stated facts, we are of the opinion that the Tribunal was justified in directing the compassionate appointment of the 1st respondent/applicant on regular basis

by granting his deceased father deemed regularization in terms of G.O.Ms.No.118 dated 18.08.1999.

13. Though the learned Government Pleader for Services would contend that compassionate appointment cannot now be directed after this long lapse of time as it would be opposed to the settled legal position in terms of case-law, we are of the opinion that the said legal principle would have no application to the case on hand as the authorities, in their own wisdom, deemed it appropriate to provide compassionate appointment to the 1st respondent/applicant immediately after his father's death, but to suit their own interests, they did so by providing him such employment as a NMR Bill Collector. The issue now is only as to the regularization of such compassionate appointment which has matured over no less than 24 years.

14. The Writ Petition is accordingly dismissed. The interim order dated 16.02.2012 shall stand vacated.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M.GANGA RAO, J

Date: 23.10.2018
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23rd day of October, 2018

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