

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.22960 OF 2011

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the Circular Memo dated 28.5.2003 and dated nil.07.2003 issued by the 1st respondent as arbitrary, illegal, violative of fundamental rights guaranteed under Articles 14, 19 and 21 of the Constitution of India and also violative of G.O.Ms.No.118 dated 18.5.1999; to quash the same and to direct the respondents to appoint the petitioner as class IV employee on compassionate grounds.

2. Heard Sri Guduri Nageshwar Rao, learned Counsel for the petitioner and Sri M. Srirama Murthy, learned Standing Counsel for the respondent-University.

3. It is the case of the petitioner that her husband was employed as casual labour on 1.8.1980 in the Agricultural College, Bapla. The respondent-university had taken a policy decision to regularize the services of all casual employees. But to the misfortune of the petitioner's husband, he expired even before his services are regularized in railway accident occurred on 11.1.1998. The petitioner has submitted a representation to consider her case for appointment on compassionate grounds on 2.2.1998. The respondents have considered the case of the

petitioner and appointed her as casual labour, vide proceedings dated 25.3.1998. Thereafter, the petitioner requested the respondents to give regular employment by absorbing her into a regular vacancy in terms of G.O.Ms.No.118 dated 18.8.1999. But the respondents rejected her case vide order dated 28.5.2003. Thereafter, a memo dated nil-07-2003 was issued to the effect that G.O.Ms.No.118 was issued on 18.5.1999 and the husband of the petitioner expired on 11.1.1998 and that the said G.O. is only prospective in nature and it has no retrospective effect. Apart from that, the University also rejected the case of the petitioner on the ground that G.O.Ms.No.118 dated 18.5.1999 was adopted by the University on 16.1.2003 and the said adoption of the above G.O. is prospective but not retrospective, and that since the petitioner lost her husband in the year 1998, the question of considering the case of the petitioner on compassionate grounds would not arise. Aggrieved by the same, the present writ petition is filed.

4. The learned Counsel for the petitioner contends that appropriate orders may be passed directing the respondents to absorb the petitioner in any regular vacancy on compassionate grounds.

5. The learned Standing Counsel for the respondents contended that there are no merits in this writ petition and that the petitioner's husband expired on 11.1.1998 and

G.O.Ms.No.118, dated 18.8.1999 was issued by the State Government to extend compassionate appointments even to contract employees and casual labour, and the said G.O. has no retrospective effect, and further, the University adopted the said G.O. from 16.1.2003 and on this ground alone, the writ petition is liable to be dismissed.

6. This Court having considered the submissions made by both the parties is of the view that this writ petition can be disposed of directing the respondents to consider the case of the petitioner for absorption in regular vacancy by duly taking into account 20 years of service put in by her from 25.3.1998 and also to consider her case for absorption on compassionate grounds in terms of G.O.Ms.No.118, dated 18.8.1999 and pass appropriate orders.

7. Accordingly, the Writ Petition is disposed of setting aside the memos impugned and directing the respondents to consider the case of the petitioner afresh for regular absorption in the regular vacancy by duly taking into account 20 years of service put in by her from 25.3.1998 and also to consider her case for absorption on compassionate grounds in terms of G.O.Ms.No.118, dated 18.8.1999 and pass appropriate orders, within a period of four weeks from the date of receipt of copy of this order in accordance with the rules. No costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated:28th November, 2018.
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HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.22960 OF 2011



28.11.2018

Nn.