

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.7654 OF 2007

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, seeking to issue writ of mandamus declaring the action of the 1st respondent in rejecting the claim of the petitioner for compassionate appointment, vide proceedings, dated 28.07.2006 as arbitrary and illegal and consequently set aside the same and direct the respondents to consider the claim of the petitioner for appointment on compassionate grounds in terms of G.O.Ms.No.118 (Finance & Planning) (FW-PCIII) Department, dated 18.08.1999.

2. Heard Sri P.Ratnam, learned counsel for petitioner and Sri G.Seena Kumar, learned standing counsel for the respondents.

3. It has been contended by the learned counsel for the petitioner that the husband of the petitioner was working as NMR since 1987 with the respondents and when the services were not considered for regularization and also for not extending minimum time scale of pay, husband of the petitioner filed W.P.No.17594 of 1993 and this Court, vide orders, dated 25.01.1994 in W.P.M.P.No.22237 of 1993 was pleased to direct the respondents to extend the minimum time scale of pay to the husband of the petitioner. Pursuant to the said orders passed by this Court, husband of the petitioner was extended minimum time scale. To the misfortune of the petitioner, her husband has expired while working as NMR on 09-07.2001. In those set of circumstances, the petitioner submitted a representation to consider her case on compassionate grounds, but the respondents have not considered the said application and

erroneously rejected her application on 28.07.2006 on the ground that the Government as per G.O.Ms.No.36, dated 05.09.2001 in respect of compassionate appointment, has taken a policy decision to extend the monetary benefit for the quantum of Ex gratia to the family of the deceased. In view of the same, the case of the petitioner cannot be considered for compassionate appointment. Challenging the same, the present writ petition is filed.

4. It has been contended by the learned counsel for the petitioner that as per G.O.Ms.No.118, dated 18.08.1999, persons who were engaged as NMR on daily wage basis are also entitled to the benefit of compassionate appointment. But contrary to the same, the respondents are not considering the case of the petitioner for compassionate appointment.

5. Learned standing counsel for the respondents contended that the A.P. Education and Welfare Infrastructure Development Corporation (for short 'APEWIDC') has taken over A.P. Scheduled Castes Co-operative Finance Corporation Limited, where the husband of the petitioner was working, vide G.O.Ms.No.198, dated 03.11.2008 and only from November, 2008, APEWIDC has taken over the A.P. Scheduled Castes Co-operative Finance Corporation Ltd., and the said corporation has passed resolution on 10.11.2010, adopting G.O.Ms.No.36, dated 05-09-2001. In view of the same, the case of the petitioner cannot be considered for compassionate appointment. At best, the respondents would be in a position to extend monetary benefit for quantum of Ex gratia to the petitioner. There are no merits in the writ petition and the writ petition is liable to be dismissed.

6. Having considered the rival contentions made by both parties, this Court is of the considered view that initial rejection orders passed by the A.P. Scheduled Castes Co-operative Finance Corporation Ltd., Hyderabad, dated 28.07.2006 are liable to be set aside only on the ground that G.O.Ms.No.36, dated 05.09.2001 was never adopted by the A.P. Scheduled Castes Co-operative Finance Corporation Ltd., Hyderabad, and in the absence of the same, the case of the petitioner could not have been rejected on the ground that compassionate appointment cannot be granted in view of G.O.Ms.No.36, dated 05.09.2001. In respect of contentions raised by the standing counsel for APEWIDC is concerned, it has come into existence only from November, 2008 and they have adopted G.O.Ms.No.36 only on 10.11.2010. It would mean that the case has to be considered before adoption of G.O.Ms.No.36 and the case of the petitioner deserves to be considered for compassionate appointment in accordance with rules which were prevailing as per G.O.Ms.No.118, dated 18.08.1999 and the respondents shall pass appropriate orders within a period of 4 weeks from the date of receipt of a copy of this order.

7. With the above observation, the writ petition is disposed of. No order as to costs. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

ABHINAND KUMAR SHAVILI, J

DATED:12-10-2018

Hsd