

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

WRIT PETITION Nos.17272 & 17986 of 2014

ORAL COMMON ORDER:

(Per Suresh Kumar Kait, J)

Vide the present writ petitions, petitioners have challenged the order dated 09.10.2012 passed in O.A.Nos.5549 of 2012 and 6959 of 2012 respectively by the Andhra Pradesh Administrative Tribunal, Hyderabad. As both these petitions arise out of the very same order, the same are heard together and disposed of by this common order.

2. The case of the respondent herein before the Tribunal was that he was adopted by Smt.Meramma, deceased employee, 10 years prior to 13.05.2010 legally by following all the formalities as per Hindu Law, but, subsequently, the same was reduced into document on 13.05.2010 and registered at the District Registrar's Office, Nandyal on 13.05.2010. After the death of his adoptive mother, the respondent herein made an application on 15.03.2012 through proper channel to the 1st petitioner requesting him for providing compassionate appointment, informing that he was adopted by the deceased employee, about 10 years prior to 13.05.2010 as per Hindu customs and Law in the presence of village elders, but the deed was executed and registered on 13.05.2010 and that he is entitled for compassionate appointment on account of the death of

his adoptive mother. To strengthen his claim, he enclosed all the relevant documents required for consideration, but the 1st petitioner rejected his case vide order dated 13.05.2012, stating that legal adoption was done on 13.05.2010 and as per the Government Memo dated 12.08.2003, if the adoption had taken place legally, at least 5 years prior to the date of the demise of the Government servant, the dependent is entitled for appointment, but, in the present case, as the adoption Deed was registered on 13.05.2010 and the employee died on 08.12.2011, the respondent herein is not entitled for compassionate appointment.

3. Learned Government Pleader for Services-II appearing on behalf of the petitioners submits that as per the application made by the respondent herein, it is stated that adoption had taken place during the year 2000 itself, i.e., more than 11 years prior to the date of the death of the deceased employee, however, the same is not correct, as there is no evidential proof such as voter identity, ration card, service book entry regarding family member declaration etc., of the deceased employee for establishing his right as family member till the documentary evidence registered on 13.05.2010. Accordingly, the respondent is not entitled for appointment on compassionate grounds. Learned Govt. Pleader further submits that the respondent has not produced legal heir certificate or the family member certificate issued based on the adoption Deed by the

Tahsildar concerned in his letter dated 15.02.2012 and hence the adoption deed registered on 13.05.2010 itself is just before three and half years prior to the death of the employee; the Tribunal allowed the O.As., filed by the respondent without taking into consideration the aforesaid fact.

4. The case of the respondent is that he was adopted by the Govt. servant who died on 08.12.2011, about 10 years prior to 13.05.2010 and further according to the respondent, though adoption took place about 10 years prior to 13.05.2010, on which date the registered adoption Deed was executed, the petitioners rejected his case stating that there is no proof to show that the adoption had taken place 10 years prior to the date of the document dated 13.05.2010.

5. It is not in dispute that similar issue came before the Tribunal in O.A.No.3339 of 2010 and by order dated 24.06.2010 it was held by the Tribunal that as the applicant therein belongs to Hindu religion, the Hindu Adoption and Maintenance Act, 1956 is applicable; the said Act does not stipulate a registered adoption deed for a valid adoption; in fact, it does not prescribe any document at all; what it prescribes is only giving in adoption and taking in adoption which can be proved by oral or documentary evidence; so, registered adoption Deed is not *sine qua non* for valid or legal adoption. The contention of the respondents therein is not based on any provision or precedent and the same was rejected and

the respondents were directed to consider the case of the applicant therein as per the provisions of G.O.Ms.No.612 dated 03.10.1999 and appoint him in suitable post depending upon his eligibility, suitability and qualifications. The matter was carried to this Court by way of W.P.No.2010 of 2011 and vide order dated 07.02.2011, this Court upheld the order of the Tribunal and dismissed the writ petition filed by the State.

6. In the aforesaid case, the adoption of the applicant took place on 15.02.1990, i.e., much prior to the date of demise of the deceased Govt. employee and the document was registered only in 2003 and this Court held that the adoption does not require any registration and the Hindu religion and the Hindu Adoption and Maintenance Act, 1956 does not stipulate a registered adoption Deed for a valid adoption; in fact, it does not prescribe any document at all and upheld the order of the Tribunal.

7. In the case on hand, according to the respondent, he was adopted by the deceased Govt. employee 10 years prior to 13.05.2010. As per the order of this Court stated above, it is clear that no document is necessary as per Hindu religion and Hindu Adoption and Maintenance Act. So, in the present case, though the document executed in the year 2010, it is clear that respondent was adopted by the deceased employee 10 years prior to the date of registration of the document and the adoption was accepted by the deceased employee. As discussed above, there is no

necessity of any adoption deed in writing and registration of the same.

Though it is registered subsequently, it cannot be the basis for rejection, as the document clearly says that adoption took place about 10 years prior to the date of registration.

8. Keeping in view the facts and circumstances of the case and the following the order dated 07.02.2011 passed by this Court in W.P.No.2010 of 2011, the learned Tribunal allowed the O.As., filed by the respondent. Consequently, the petitioners herein were directed to consider the case of the respondent herein for appointment on compassionate grounds as per G.O.Ms.No.612 dated 03.10.1999 as per his qualification, eligibility and suitability. In that view of the matter, we do not find any illegality or perversity in the order of the Tribunal.

9. Writ Petitions are accordingly dismissed. No order as to costs.

As a sequel, miscellaneous petitions, if any, pending in the petition, stand closed.

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

January 29, 2018
MRR