

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.20725 OF 2010

DATED : 29.01.2018

Between :

M. Krishna Rao S/o.Late Narasimha Appa Rao,
Aged 57 yrs, Occu : ALM,
Operation Circle, A.P.E.P.D.C.L & another.

.. Petitioners

And

Eastern Power Distribution Company of A.P. Ltd.,
Visakhapatnam,
rep., by its Chairman & Managing Director & others.

.. Respondents



This court made the following :

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ORDER :

The first petitioner while working as Assistant Lineman claimed to have suffered serious ailment of **“TINGLING NUMBNESS OF THE BOTH LOWER LIMBS CERVICAL CANAL STENOSIS CERVICAL SPONDYLOSIS, DISC PROTRUDING”** in August, 2006. He applied to provide employment to his daughter-second petitioner, under the scheme of compassionate appointment to the dependants of person retiring on medical invalidation grounds. The said request of the first petitioner was considered and by order dated 29.08.2009 it was rejected. Assailing the same, the present writ petition is filed.

2. Heard Sri V.Sudhakar Reddy, learned counsel for the petitioners and learned Standing counsel for the respondents.

3. Learned counsel for the petitioners submit that as the ailment with which the first petitioner is suffering was serious, he became burden on the family and the entire family was subjected to lot of financial hardship. Having regard to the ailments he was suffering, the respondent-Company ought to have provided employment on compassionate grounds under the scheme and rejection of application claiming he did not have five years of service by the time, the application was made is erroneous.

4. Learned counsel for the petitioners submits that as the primary objective of the scheme is to provide employment when employee becomes burden on his family and when he is totally incapable because of serious illness. Thus, object of the scheme

ought to have been seen while considering the application and few months short of five years of service ought to have been ignored in considering the application for compassionate appointment.

5. *Per contra*, learned Standing counsel would submit that as the scheme prescribes minimum service required to consider the application under the scheme and as the first petitioner has not fulfilled the requirements, the rejection was valid and no exception is called for. According to learned standing counsel, petitioner retired from service on 30.04.2011 on attaining the age of superannuation and an order to that extent was passed on 23.04.2011.

6. It appears that first petitioner suffered serious ailment. Claiming he was suffering from serious ailments, he made an application to provide employment on compassionate grounds to his daughter. Reading of the application itself would show that he was bed ridden from 23.08.2006 and could not recover from the ailments.

7. A reading of application would also show there was no request made to retire him on medical invalidation grounds and no order was passed retiring him on medical invalidation ground. He was retired on attaining the age of superannuation but not on medical invalidation grounds. The first petitioner is not agitating on any other issue except claim of appointment on compassionate grounds to his daughter.

8. Be that as it may, assuming that the respondents also treated the petitioner as retired from service while passing orders

on 29.08.2009, the order does not reflect the factum of petitioner was not retired from service, and the reason assigned in rejecting the claim needs to be looked into in terms of the scheme notified vide GO.Ms.No.296 dated 16.12.2008. Para 5 (4) of the scheme requires submission of application to provide appointment on compassionate grounds to be made within a period of one year from the date of "Retirement of Employee on Medical Invalidation".

9. In paragraph No.6, it is further envisaged that the benefit of such appointment should be confined to the cases where, employees retire on medical ground had left over service of five years before attaining the age of superannuation.

10. Thus, the three primary requirements for applying the scheme are :

- (i) The employee must retire from service on medical invalidation ground;
- (ii) He must have left over service of five years after the order of retirement was made and;
- (iii) Application should be made within one year from the date of such retirement.

11. None of these conditions are fulfilled in the instant case. Thus, no exception can be made to the decision in rejecting the request for provision of employment on compassionate grounds.

12. The appointment on compassionate ground is an exception to the normal method of recruitment and can be extended only on strict compliance of the terms of scheme. The clauses in the scheme requires strict interpretation.

13. Having regard to the nature of scheme and parameters for consideration of claims under the scheme as laid down by the Hon'ble Supreme Court in catena of decisions, even if the employer treats the petitioner as retired from service, when the application was submitted, and application was rejected without referring to the status of the first petitioner, vis-à-vis his employment, admittedly first petitioner did not have five years of service on the date when application was made. Therefore, I see no merit in the writ petition and the same is liable to be dismissed.

14. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

29th January, 2018
Rds

P.NAVEEN RAO,J

