

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.6006 OF 2002

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the respondents in not considering the case of the petitioner for compassionate appointment as highly illegal, arbitrary, violative of Article 14 of the constitution of India and also contrary to the orders passed by this Court in W.A.No.657 of 1999, and consequently, to direct the respondents to appoint the petitioner on compassionate grounds in any suitable post in the respondent-organization.

2. Heard Sri G.V. Sivaji, learned Counsel for the petitioner and Smt. Deepthi, learned Standing Counsel for the respondents.

3. It is the case of the petitioner that his father worked as contract labour in B Station of Kothagudem Thermal Power station under the control of Superintendent Engineer, Generating Services, from 1.6.1984 to 4.11.1997. While so, the Government of A.P. abolished the contract labour system in 33 categories of employment in generating stations of APSEB vide G.O.Ms.No.41, dated 23.9.1996. As per the said G.O., the contract labour working as on the date of abolition have to be absorbed. In compliance of the same, the then APSEB issued B.P.Ms.No.37, dated 18.5.1997

for absorption of contract labour, who were working as on 23.9.1996 in abolished categories. The father of the petitioner was interviewed in June, 1997, but unfortunately, he met with an accident on 4.11.1997 and expired. The candidates who worked along with the father of the petitioner were absorbed w.e.f. 23.9.1996 vide B.P.Ms.No.326, dated 14.3.1998. But the father of the petitioner was not absorbed as he expired. After appointment of the other contract labour, the petitioner made application on 22.6.1998 for appointment on compassionate grounds but the respondents have not taken any action. Aggrieved by the same, the present writ petition has been filed.

4. The learned Counsel for the petitioner contended that the persons, who worked along with the father of the petitioner, were absorbed but unfortunately as the father of the petitioner expired, his services were not regularized, and that the application of the petitioner for compassionate appointment ought to have been considered by the respondents, and that the petitioner made applications on 22.6.1998 and 29.9.2000, but the respondents have not considered his representations.

5. The learned Counsel for the petitioner further contended that the issues raised in this writ petition is squarely covered by the

orders passed by this Court in WA No.657 of 1999, dated 1.12.1999, which read as follows:

‘Respondents Nos.2 and 3 or other competent authority should interview the appellants, collect the necessary documents available with them and examine the question of entitlement of the appellants’ husbands for regular absorption in APSEB in the light of the relevant criteria and the material available. If there is any doubt, necessary further verification should be made to cross check the information with the records available in the concerned unit and /or with the contractors. We make it clear that while causing verification in the instant cases, no different standards than those applied to workmen absorbed shall be applied. On the other hand, in the view of the demise of the appellants’ husbands, it is a case in which more liberal approach is called for while scrutinizing their cases.

(2) If the husbands of the appellants were working with the contractors on 23.9.1996 in one of the prohibited categories of employment, compassionate appointments shall be offered to the appellants.

(3) We record the statement of the learned Standing Counsel that if the contract labourers concerned were working almost continuously during the month of September, 1996, their mere absence on 23.9.1996 is not being taken seriously by the respondents for the purpose of considering their cases for regularization.

(4) The appellants’ Counsel shall furnish the full and latest addresses of the appellants to the Standing Counsel for APSEB within three days.

The learned Counsel for the petitioner contended that in view of the above judgment, the case of the petitioner be considered for compassionate appointment.

6. The learned Standing Counsel for the respondents contended that the scheme of compassionate appointment is intended only for regular employees, but not to the contract employees. She further contended that the father of the petitioner worked as carpenter and his work does not fall under 33 prohibited categories of contract labour, and that no details were furnished by the petitioner as to whether his father was eligible for regular appointment or not. She further contended that the question of appointment of the petitioner after lapse of nearly 21 years from the date of death his father on compassionate grounds would not arise, and therefore, the writ petition is liable to be dismissed.

7. This Court having considered the rival submissions made by 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 compassionate appointment strictly in terms of the scheme of compassionate appointment and by duly taking into account the judgment rendered by this Court in W.A.No.657 of 1999, dated 1.12.1999.

8. Accordingly, the Writ Petition is disposed of directing the respondents to consider the case of the petitioner for compassionate appointment strictly in terms of the scheme of compassionate appointment and by duly taking into account the

judgment rendered by this Court in W.A.No.657 of 1999, dated 1.12.1999 and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 27.8.2018.

Nn.



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Nn.