THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.412 OF 2018

ORDER:

This writ petition is filed seeking a Writ of Certiorari to call for the records relating to and connected with the impugned proceedings dated 20.07.2017 passed by the 1st respondent and quash or set aside the same by duly declaring the action of the 1st respondent in rejecting the claim of the petitioner for appointment in Last Grade Service on compassionate grounds in the place of his late mother P. Satyamma and not extending the benefit of relaxation of the upper age limit to the petitioner though such benefit was extended in favour of several other individuals, as illegal and arbitrary and sought a consequential direction to direct the respondents to consider the case of the petitioner for appointment on compassionate grounds in Last Grade Service in the place of his late mother by duly relaxing the upper age limit as was done in the case of several individuals vide G.O.Rt.No.39 dated 19.03.2010, G.O.Rt.No.469 dated 13.07.2012 and G.O.Ms.No.52 dated 29.05.2010, without reference to the impugned proceedings dated 20.07.2017 passed by the 1st respondent.

Heard Sri S. Satyanarayana Rao, counsel for the petitioner, and Government Pleader for Services-II.

It has been contended by the petitioner that his mother was employed as a Cook with the respondents and she expired while discharging her duties on 27.08.2016. Thereafter, the petitioner has

submitted a representation on 01.02.2017 requesting the respondents to consider his case for appointment on compassionate grounds. The respondents have considered the case of the petitioner and rejected vide impugned proceedings dated 20.07.2017 on the ground that the petitioner has crossed the upper age limit for being considered for compassionate appointment.

Counsel for the petitioner has contended that the respondents have considered the cases of several individuals who have crossed the upper age limit for compassionate appointment vide G.O.Rt.No.39 dated 19.03.2010, G.O.Rt.No.469 dated 13.07.2012 and G.O.Ms.No.52 dated 29.05.2010, but rejected the case of the petitioner on the ground that he has crossed the upper age limit for being considered for compassionate appointment. Counsel for the petitioner had further contended that the State Government has issued G.O.Ms.No.190 dated 08.08.2017, whereby the upper age limit for appointment by direct recruitment for the ensuing recruitments through TSPSC and other recruiting agencies in the State has been raised by 10 years i.e., from 34 years to 44 years, and in the instant case, admittedly the petitioner is only 43 years and his case can still be considered for appointment on compassionate grounds in terms of G.O.Ms.No.190 dated 08.08.2017. Counsel for the petitioner also contended that when the benefit of relaxation of upper age limit for compassionate appointment was extended to several individuals, denying similar benefit to the petitioner by the respondents is an arbitrariness exercise, therefore, only on this ground, the impugned

proceedings are liable to be dismissed and the respondents be directed to consider the case of the petitioner for compassionate appointment within a reasonable period of time, if necessary by relaxing the upper age limit.

Government Pleader had drawn attention of this Court to the counter filed by the respondents, wherein the respondents have contended that G.O.Ms.No.190 dated 08.08.2017 is not applicable to compassionate appointments and the scheme of compassionate appointments is now based on circular memo dated 12.08.2003, whereby the upper age limit for compassionate appointment is fixed as 33 years for Open Category candidates and for Scheduled Caste/Scheduled Tribe/Backward Classes, five years age concession is given. It is also stated that since the petitioner has crossed the upper age limit of 33 years, the respondents have rightly considered and rejected the case of the petitioner vide impugned proceedings dated 20.07.2017.

Government Pleader for the respondents had also contended that if the petitioner seeks relaxation, then he must approach the State Government seeking relaxation as was done in several other cases, therefore the 1st respondent has rightly rejected the case of the petitioner as the petitioner has crossed the upper age limit; there are no merits in the writ petition and the writ petition is liable to be dismissed.

This Court, having considered the submissions of learned counsel for respective parties, is of the considered view that this writ petition can be disposed of directing the petitioner to submit a representation afresh to the State Government i.e., the 3rd respondent herein, within two weeks from the date of receipt of a copy of this order, staking his claim for relaxation of upper age limit as was done in several other cases. Upon such representation being received, the 3rd respondent shall consider the same without being influenced by the earlier rejection orders dated 20.07.2017 and pass orders afresh within a reasonable period of time, preferably within three months thereafter.

With the above observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

26th November, 2019
v v

HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD