

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.12536 of 2019

ORDER:

This writ petition is filed seeking the following relief :-

“.....to issue Writ, order or direction preferably Writ of Mandamus declaring the order issued by the 3rd respondent vide Proceedings Rc.No.E1/ 1334/ 2018-9, dated 11.06.2019 rejecting the application of the petitioner for compassionate appointment on the ground that the petitioner's application is beyond 3 years as illegal, arbitrary, contrary to record and violative of principles of natural justice and consequently set aside the said order and further direct the respondents to appoint the petitioner as Junior Assistant on compassionate grounds”

Heard Mr.Kowturu Pavan Kumar, learned counsel for the petitioner and the learned Government Pleader for Services-II.

It has been contended by the petitioner that his father was employed as a driver with the respondents and while discharging his duties, he expired on 27.07.2013. Thereafter, the petitioner has submitted a representation to the respondents on 04.10.2013 seeking appointment on compassionate grounds. As there were other legal heirs, who are also claiming appointment on compassionate grounds, the petitioner has filed O.S.No.334 of 2014 on the file of the Principal Junior Civil Judge, Khammam and the Principal Junior Civil Judge, Khammam was pleased to decree the suit in favour of the petitioner vide order dated 25.07.2016 holding that the petitioner along with other plaintiffs are legal heirs of

S.K.Moulana, who died intestate on 27.07.2013. Thereafter, the petitioner has submitted a representation to the respondents enclosing a copy of the decree in O.S.No.334 of 2014 dated 25.07.2016 passed by the Principal Junior Civil Judge, Khammam. The respondents have considered the case of the petitioner and rejected the same vide proceedings dated 11.06.2019 on the ground that the petitioner has submitted representation seeking compassionate appointment after a lapse of three years 4 months 12 days. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner has contended that the petitioner has submitted representation seeking appointment on compassionate grounds on 04.10.2013 itself and the copy of the said representation is filed at page No.13 of the material papers of the writ petition and the 4th respondent has also placed an endorsement on the said representation and therefore, the impugned rejection order was passed without application of mind and without taking into account the representation submitted by the petitioner on 04.10.2013. Therefore, the learned counsel submits that the impugned rejection order is liable to be set aside as it has been passed without application of mind and without verifying the correct records and appropriate direction be issued to the respondents to consider the case of the petitioner afresh for

appointment on compassionate grounds in any suitable post in accordance with law.

Learned Government Pleader appearing for the respondents has contended that the petitioner has submitted representation only in the month of December, 2016 by enclosing a copy of the decree in O.S.No.334 of 2014 dated 25.07.2016. As the petitioner has approached the respondents after a lapse of three years, the respondents have rightly rejected the case of the petitioner. Moreover, as alleged by the petitioner, the representation submitted by the petitioner on 04.10.2013 was not traceable with the respondents. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that the petitioner could demonstrate before this Court that he has submitted a representation to the respondents on 04.10.2013 claiming appointment on compassionate grounds and the said representation was also acknowledged by the 4th respondent and there is a seal of the 4th respondent. Since the 4th respondent has acknowledged the representation submitted by the petitioner on 04.10.2013, the respondents cannot reject the case of the petitioner on the ground that the petitioner has approached the respondents after a lapse of three years. Therefore, the

impugned rejection order is liable to be set aside and it is accordingly set aside. The respondents are directed to reconsider the case of the petitioner for appointment on compassionate grounds in any suitable post by duly taking into account the representation submitted by the petitioner on 04.10.2013, which was acknowledged by the 4th respondent, and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

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

Pending miscellaneous petitions, if any, shall stand closed.

15-10-2019
Prv

ABHINAND KUMAR SHAVIL, J