

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.22262 of 2011

ORDER:

This writ petition is filed seeking a Writ of Mandamus directing the respondents to approve the appointment of the petitioner in the 2nd respondent-School as Attender with effect from 27.01.2005 and sought consequential directions directing the respondents to pay salary to the petitioner from the date of appointment i.e. from 27.01.2005 with all consequential benefits.

2. Heard Sri V.Venkatarami Reddy, counsel for petitioner and G.P. for School Education, appearing for respondents.

3. It has been contended by the petitioner that his father was employed as an Attender with the 2nd respondent-School and while he was discharging his duties, he expired on 05.12.2003. Later, the petitioner has submitted a representation on 30.06.2004, requesting the respondents to appoint him on compassionate grounds. Then the 2nd respondent was pleased to appoint the petitioner as an Attender on 27.01.2005 and submitted proposals to respondents 1 and 3 for approving such appointment, but so far, respondents 1 and 3 have not passed any orders on the proposals submitted by the 2nd respondent. Therefore, counsel for petitioner contended that appropriate orders be passed in the writ petition directing respondents 1 and 3 to approve the appointment of petitioner in an aided vacancy in the 2nd respondent-School from the date of his initial appointment i.e. with effect from 27.01.2005.

4. Counsel for petitioner has further drawn the attention of this Court to the counter affidavit of respondents, wherein, the respondents have contended that the petitioner is not eligible for compassionate appointment, as there was ban on such appointments during relevant time. In para 9 of the counter affidavit, it is stated that as per G.O.Ms.No.5, dated 11.09.2014, the earlier G.O.Ms.No.113, dated 06.10.2009 was ordered to be implemented with retrospective effect from 20.10.2004 and the scheme of compassionate appointment is extended to only such of those employees, who have died on or after 20.10.2004, but not earlier thereto. It is contended that the respondents are not considering the case of the petitioner on the ground that the father of the petitioner had expired on 05.12.2003 i.e. earlier to 20.10.2004. Counsel for petitioner has further contended that the respondents have considered the case of one Smt.Veeramani for appointment on compassionate grounds vide G.O.Ms.No.39, dated 05.06.2007 inspite of the fact that a family member of said Veeramani had expired earlier to 20.10.2004. The counsel for petitioner has contended that petitioner is also similarly situated like Smt.Veeramani, and hence, similar benefit should be extended to the petitioner also. Counsel for petitioner has further drawn the attention of this Court to G.O.Ms.No.568, dated 01.07.1982 and contended that even as per this G.O., the petitioner is entitled for compassionate appointment. He has also drawn the attention of this Court to the orders passed in W.P.No.21938 of 2012, dated 28.01.2016, wherein, this Court had directed that the case of the petitioner therein be considered for compassionate appointment and the counsel for petitioner

submits that since the respondents have not passed any orders on the proposals submitted by the 2nd respondent, let respondents 1 and 3 consider the case of the petitioner in terms of G.O.Ms.No.39, dated 05.06.2007, G.O.Ms.No.568, dated 01.07.1982 and also in terms of the orders passed by this Court in W.P.No.21938 of 2012, dated 28.01.2016 and pass appropriate orders.

5. The Government Pleader appearing for respondents 1 and 3 has contended that the petitioner is not entitled for compassionate appointment as the father of the petitioner had expired earlier to 20.10.2004, and hence, the case of the petitioner cannot be considered. However, the Government Pleader contends that since respondents 1 and 3 have not passed any orders on the proposals submitted by the 2nd respondent, respondents 1 and 3 would consider the case of the petitioner and pass appropriate orders in accordance with law.

6. This Court, having considered the rival submissions made by the parties, is of the considered view that this writ petition can be disposed of directing respondents 1 and 3 to consider the case of the petitioner for appointment on compassionate grounds with effect from 27.01.2005 by duly taking into account G.O.Ms.No.39, dated 05.06.2007, G.O.Ms.No.568, dated 01.07.1982 and also the judgment of this Court in W.P.No.21938 of 2012, dated 28.01.2016 and pass appropriate orders within reasonable period of time, preferably within a period of Four months from the date of receipt of a copy of this order.

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

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

24th September 2019

ajr

