

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.745 of 2012

ORDER:

This writ petition is filed seeking the following relief :-

“.....to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in issuing impugned Memo No.JS(Per)/ DS(Estt)/ AS(V&R)-NT/ PO-J/ 267/ 1999, dated 15.9.2011 as highly illegal, arbitrary and violative of Arts.14 and 16 of the Constitution of India apart from violative of principles of natural justice and consequently set aside the same”.

Heard Mr.G.V.Shivaji, learned counsel for the petitioner and the learned Standing Counsel for respondents.

It has been contended by the petitioner that his father was employed as a DOD Loco Driver with the respondents and while discharging his duties, he expired on 10.09.1988. Thereafter, his step brother got issued a legal notice dated 14.10.1988 seeking appointment on compassionate grounds and the respondents have rejected the same vide proceedings dated 03.04.1990. Aggrieved thereby, his step brother filed W.P.No.15209 of 1990 seeking appointment on compassionate grounds and the said writ petition was dismissed on 19.09.2000 for non-prosecution and consequently, his step brother could not be appointed on compassionate grounds. Thereafter, the petitioner submitted an application to the respondents during February, 2010 seeking appointment on compassionate grounds. The respondents have considered his case and rejected the same vide impugned proceedings dated 15.09.2011 without assigning any reasons except stating as follows :-

“.... the request of Sri Qumuruddin Khan, S/o.Late Sarfaraz Khan, Ex.DLD/ RTS/ Ramagundam for providing employment

under compassionate scheme has been examined and found that it doesn't merit consideration as per the orders issued by the Government of A.P. dated 01.08.1980 and as per the orders issued by the erstwhile APSEB dated 21.02.1991. Hence, it is rejected."

The petitioner contends that as the impugned rejection order is a non-speaking order, the same is liable to be set aside.

Learned counsel for the petitioner submits that after the death of the father of the petitioner, none of the family members of the petitioner were appointed on compassionate grounds and, therefore, appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner afresh for appointment on compassionate grounds in accordance with the policy of the respondents.

Learned Standing Counsel appearing for the respondents contends that earlier the case of the step brother of the petitioner was considered and rejected vide Memo dated 03.04.1990 and the said Memo was the subject matter of W.P.No.15209 of 1990 and the said writ petition was dismissed on 19.09.2000 for non-prosecution. Nearly after twenty years, the petitioner has submitted an application during February 2010 seeking appointment on compassionate grounds. The case of the petitioner was considered by the respondents and rightly rejected vide impugned Memo dated 15.09.2011. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions, is of the considered view that the impugned rejection order dated 15.09.2011 is a cryptic order, as no reasons were assigned as to why the case of the petitioner was rejected, except stating that the

request of the petitioner for providing employment under compassionate scheme doesn't merit consideration as per the orders issued by the Government of Andhra Pradesh and the erstwhile APSEB. From a perusal of the impugned order, it is evident that it is not known on what basis the case of the petitioner was considered and rejected. If the respondents have rejected the case of the petitioner on the ground of delay and laches, the same should have been reflected in the impugned order. But, without assigning any reasons, the respondents have rejected the case of the petitioner vide impugned order dated 15.09.2011. Therefore, the impugned order is liable to be set aside, as it was passed without application of mind and without assigning any reasons, and the same is accordingly set aside. The respondents are directed to consider the case of the petitioner afresh in tune with the policy of the respondents 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.

ABHINAND KUMAR SHAVIL, J

Date: 03-09-2019
Prv

