

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION (TR) No.3950 of 2017

ORDER:

This writ petition is filed seeking to declare the proceedings dated 13.02.2015, 30.03.2015 and 01.04.2015 as illegal and arbitrary with a consequential direction to the respondents to continue the petitioner as office subordinate in the present place of working.

Heard Mr.Bala Rangaiah, learned counsel for petitioner and the learned Government Pleader for Services-II.

The instant writ petition is transferred from the A.P.Administrative Tribunal and the same is numbered as WP(TR).No.3950 of 2017.

The case of the petitioner is that his mother was employed as Secondary Grade Teacher with the respondents and while discharging her duties she expired on 15.02.2008. Petitioner submitted a representation to consider his case for appointment on compassionate grounds. As per G.O.Ms.No.612, dated 30.10.1991, the petitioner is eligible and qualified to be appointed on compassionate grounds, but the respondents have not considered his case on the ground that he was aged 35 years and the maximum age prescribed as per Rules for appointment on compassionate grounds is 33 years. The petitioner further submits that the State Government is the competent authority to relax the age and accordingly, after examining the case of the petitioner vide Memo dated 29.08.2012, the State Government was pleased to relax the condition relating to maximum age of the petitioner and directed the 2nd respondent to provide suitable employment to the petitioner. Pursuant to the said Memo dated 29.08.2012, the petitioner's case was considered and he was appointed as Office

Subordinate vide proceedings dated 31.12.2013 issued by the Deputy Chief Executive Officer (FAC) Zilla Praja Parishad, Nizambad. The petitioner was discharging his duties as Office Subordinate without any complaint. While so, the 7th respondent, without issuing any notice and without appreciating the fact that the State Government has relaxed the condition of maximum age of the petitioner vide proceedings dated 29.08.2012, has mechanically terminated the services of the petitioner vide proceedings dated 30.03.2015. Challenging the same, the present writ petition is filed.

Learned counsel for petitioner submits that even though the State Government has considered the case of the petitioner and relaxed the age of the petitioner, without considering the same, the 7th respondent has passed order dated 30.03.2015 terminating the services of petitioner and hence, the said termination order dated 30.03.2015 and consequential proceedings dated 01.04.2015 are liable to be set aside.

Learned counsel for petitioner contends that when once the State Government has relaxed the condition of maximum age in respect of the petitioner, the respondents ought not to have terminated the services of the petitioner on the ground that the Commissioner of Panchayat Raj, under whose control the petitioner is working, is the competent authority, who rejected the case of the petitioner for relaxation of age vide proceedings dated 24.09.2014.

Learned Government Pleader appearing for respondents has submitted that as per Circular Memo dated 12.08.2003 the cases of dependants of the deceased Government employees to the posts included in the A.P. Last Grade Service involving relaxation of age,

educational qualifications etc., need not be referred to Government in future and the Head of the Department alone is competent to take decision. Since the Commissioner in exercise of his power under the said Circular Memo has rejected the case of the petitioner for relaxation of his age, the 7th respondent has rightly terminated the services of the petitioner. 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 learned counsel for the respective parties, is of the considered view that the Commissioner cannot rely on the general Circular issued way back in the year 2003 and reject the case of the petitioner for relaxation of his age. When the State Government itself has specifically relaxed the age in respect of the petitioner vide Memo dated 29.08.2012, the Commissioner ought not to have exercised his power relying on the general Circular issued in the year 2003. Therefore, the impugned orders are liable to be set aside and are accordingly set aside.

The writ petition is accordingly allowed. The respondents are directed to reinstate the petitioner into service with all consequential benefits.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVIL, J

Date: 04-02-2019
Prv

