

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.24355 OF 2019

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the respondents in not considering the case of the petitioner for any suitable post/appointment on compassionate grounds under the bread winner scheme, as arbitrary, illegal and violative of Articles 14, 16 and 21 of the Constitution of India and sought a consequential direction to direct the respondents to take immediate steps for appointing the petitioner on compassionate grounds under the bread winner scheme.

Heard Sri K. Laxmi Manohar, counsel for the petitioner, and Sri A.Ravi Babu, Standing Counsel appearing for the respondents.

It has been contended by the petitioner that his father was employed as Driver with the respondents and while he was discharging his duties, he was removed from service *vide* orders dated 03.08.2000 by the respondents on certain alleged irregularities. Aggrieved by the removal order, the petitioner's father raised dispute in I.D.No.175 of 2003 under Section 2-A(2) of the Industrial Disputes Act, 1947 before the Industrial Tribunal-cum-Labour Court, Godavarikhani. The Tribunal, *vide* award dated 17.12.2004, was pleased to dismiss the said I.D preferred by the petitioner's father. Later, challenging the said award of the Tribunal, W.P.No.22346 of 2007 was filed by the petitioner's father. However, during pendency

of the said writ petition, the petitioner's father has expired on 07.11.2017 and thereafter his legal heirs were brought on record and finally the said writ petition was allowed *vide* orders dated 13.07.2018 by setting aside the removal order as well as the award dated 17.12.2004 passed by the Tribunal and the respondents were directed to pay 50% of the back wages. Aggrieved by the orders passed by the learned Single Judge, the respondents preferred W.A.No.1568 of 2018 and a Division Bench of this Court was pleased to dispose of the writ appeal on 27.12.2018 modifying the order of the learned Single Judge to the extent of reducing the back wages from 50% to that of 25%.

Counsel for the petitioner contended that since the removal orders of the petitioner's father have been set aside by this Court, the petitioner's father should be considered to be in service without there being removal orders, and in that analogy and legal fiction, the petitioner's case be considered for appointment on compassionate grounds. Counsel for the petitioner further contended that the petitioner has submitted representations on 23.11.2017 and 20.08.2019 seeking compassionate appointment under bread winner scheme, but so far the respondents have not passed any orders on the said representations nor considered the case of the petitioner for appointment on compassionate grounds. Therefore, counsel for the petitioner contended that appropriate orders be passed in the writ petition directing the respondents to consider the representations submitted by the petitioner and pass appropriate orders in accordance with law, within a reasonable period of time.

Standing Counsel appearing for the respondents had contended that since the petitioner's representations are pending with the respondents, the respondents would consider the same and pass appropriate orders in accordance with law, within a reasonable period of time.

This Court, having considering the submissions of learned counsel on either side, is of the considered view that this writ petition can be disposed of directing the respondents to consider the representations submitted by the petitioner on 23.11.2017 and 20.08.2019 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 directions, the writ petition is disposed of. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

29th November, 2019
v v

