

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.34267 of 2017

ORDER:

Heard Sri S.Gopal Rao, learned counsel for the petitioner and the learned Government Pleader for services-III. With the consent of learned counsel for the respective parties, this Writ Petition is disposed of at the admission stage.

This Writ Petition is filed for the following relief:

“.....Writ in the nature of Mandamus or any other appropriate writ, order or direction, by calling for the records relating to proceedings of the 6th respondent bearing No.A2/372/2017, dt.24-08-2017 and set aside the same by declaring the same as illegal, arbitrary and unconstitutional being violative of Articles 14, 16 & 21 of Constitution of India and consequently direct the respondents to sanction and pay the entire pensionary benefits including family pension, gratuity, etc., with interest, to the 1st petitioner and consider the case of the 2nd petitioner for compassionate appointment and appoint him as such in any suitable post, with all consequential benefits and to pass such other order.....”

It has been contended by the 1st petitioner that her husband was employed with the respondents since 1979 on daily wage basis and after rendering considerable length of service, her husband was converted into last grade service employee vide proceedings dated 25.08.1985 w.e.f. 13.08.1984. While the husband of the 1st petitioner was discharging his duties as a last grade employee, the respondents have issued proceedings dated 07.07.2006 reverting him from last grade service employee to a daily wage employee. Challenging the same, the 1st petitioner's

husband filed O.A.No.5054 of 2006 before the then Administrative Tribunal and the said O.A. was allowed vide order dated 15.12.2009 by setting aside the impugned order of reversion dated 07.07.2006. By virtue of the said orders passed by the Tribunal, the husband of the 1st petitioner was continued as a last grade service employee and while he was discharging his duties in the 3rd respondent's office, he expired on 01.11.2016. Thereafter, petitioners 1 and 2 have submitted a representation requesting the respondents for sanction of all pensionary benefits and also consider the case of the 2nd petitioner for appointment on compassionate grounds. But the respondents have rejected the case of the 2nd petitioner for appointment on compassionate grounds vide impugned proceedings dated 24.08.2017 by duly referring to the Government Memo dated 18.02.2000 stating that the Government had categorically held that conversion of a daily wage worker to a last grade service employee is not proper and contrary to Rules.

Learned counsel for the petitioner has drawn the attention of this Court to the orders dated 11.08.2004 passed in O.A.No.4865 of 2000, which was filed by some of the similarly situated persons, wherein the Tribunal has set aside the Memo dated 18.02.2000, and accordingly, O.A. No.5054 of 2006 filed by the husband of the 1st petitioner along with one Ramulu was also allowed vide order dated 15.12.2009 since the proceedings dated 07.07.2006 reverting the 1st petitioner's husband from last grade service employee to a daily wage worker were issued referring the Memo dated 18.02.2000 which has already been set aside by the

Tribunal in O.A.No.4865 of 2000. He further contends that when once the Memo dated 18.02.2000 has been set aside by the Tribunal, the respondents are not justified in rejecting the case of the petitioner by citing the very same Memo dated 18.02.2000 in the impugned order dated 24.08.2017. Learned counsel for the petitioner contends that the case of one Ramulu who was the 2nd applicant in O.A.No.5054 of 2006, was considered and was paid pensionary benefits, including appointment on compassionate ground to his son on filing of O.A.No.130 of 2010 and though petitioners are also similarly situated, the respondents are denying the pensionary benefits to the 1st petitioner as well as compassionate appointment to the 2nd petitioner. Therefore, learned counsel for the petitioner contends that appropriate orders be passed in the writ petition by setting aside the impugned proceedings dated 24.08.2017 and direct the respondents to pay pensionary benefits to the petitioners and also consider the case of the 2nd petitioner for appointment on compassionate grounds.

Learned Government Pleader appearing for the respondents contends that the case of the petitioners was considered and rejected vide order dated 24.08.2017 by taking into account the Memo issued by the Government dated 18.02.2000 and no illegality has been committed by the respondents in passing such orders. He further contends that 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 when once the Memo dated 18.02.2000 was set aside by the Tribunal in O.A.No.4865 of 2000 dated 11.08.2004, citing the very same orders passed in the said O.A., O.A. No.5054 of 2006 filed by the 1st petitioner's husband along with others was also allowed and impugned reversion order dated 07.07.2006 was set aside, the respondents once again cannot reject the case of the petitioners by citing the very same order, which was set aside by the Tribunal and therefore, the impugned order is passed without ascertaining whether the Memo dated 18.02.2000 is valid or not. Therefore, the impugned order passed by the 6th respondent dated 24.08.2017 referring to the Memo dated 18.02.2000 is liable to be set aside and accordingly it is set aside and the respondents are directed to consider the case of the 1st petitioner for grant of all pensionary benefits and also consider the case of the 2nd petitioner for appointment on compassionate grounds within a reasonable period, preferably within a period of four months from the date of receipt of a copy of this order.

With the above observations, this writ petition is disposed of. No order as to costs.

As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

07.08.2019
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