

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION No.26868 of 2019

Date: 04.12.2019

BETWEEN

Syed Sarwar Ahmed.

... PETITIONER

AND

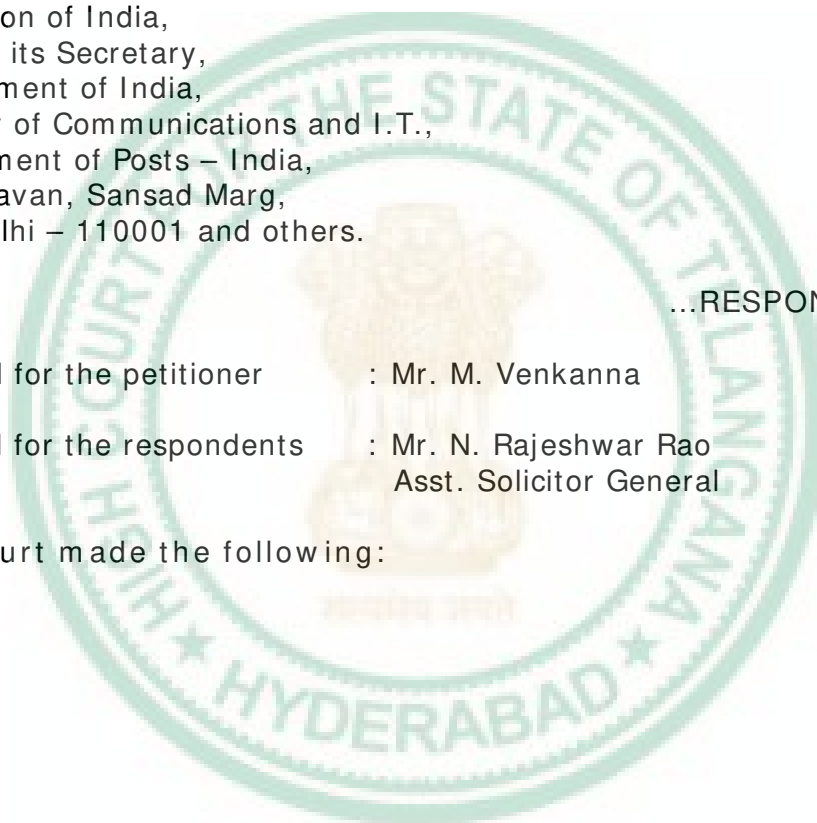
The Union of India,
Rep. by its Secretary,
Government of India,
Ministry of Communications and I.T.,
Department of Posts – India,
Dak Bhavan, Sansad Marg,
New Delhi – 110001 and others.

...RESPONDENTS

Counsel for the petitioner : Mr. M. Venkanna

Counsel for the respondents : Mr. N. Rajeshwar Rao
Asst. Solicitor General

The Court made the following:



ORDER: { Per the Hon'ble the Chief Justice Sri Justice Raghvendra Singh Chauhan}

The petitioner has challenged the legality of the order dated 09.06.2016 passed by the Central Administrative Tribunal, Hyderabad Bench, whereby the learned Tribunal has dismissed the OA.No.1313 of 2014 filed by the petitioner seeking compassionate appointment.

2. Briefly the facts of the case of are that the petitioner claimed to be an adopted son of Late Syed Zahid Ahmed. According to him, his adoptive father was appointed as Grameen Dak Sevak/Mail Carrier/Mail Deliverer. While his adoptive father was working, on 02.07.2012, he died in harness. After the death of his adoptive father, the petitioner has been officiating as Grameen Dak Sevak/Mail Carrier/Mail Deliverer. Since he was not regularly appointed, he filed an application before the respondents to consider his case for appointment to any eligible post on compassionate ground, as the department had introduced a scheme for compassionate appointment on 20.01.2010. However, the petitioner's application for compassionate appointment was rejected by order dated 06.06.2013.

3. Since the petitioner was aggrieved by order dated 06.06.2013, he filed an Original Application, namely, O.A.No.81 of 2014, before the learned Tribunal. By order dated 22.04.2014, the learned Tribunal quashed and set aside the order dated 06.06.2013 and directed the respondents therein to reconsider the claim of the applicant for compassionate appointment as per the scheme/instructions on the subject matter within a period of six weeks. But even after the passing of the order dated 22.04.2014, by order dated 09.09.2014, the respondents have rejected the petitioner's case for compassionate

appointment. Therefore, the petitioner had filed the present OA. However, by order dated 09.06.2016 the learned Tribunal has dismissed the OA. Hence, the present writ petition before this Court.

4. Considering the fact that the petitioner belongs to the Muslim community, considering the fact that the Muslim Personal Law does not recognize adoption, this Court has asked the learned counsel for the petitioner a pointed query as to on what basis the petitioner claimed that he has been adopted by his adoptive father, Late Syed Zahid Ahmed.

5. According to the learned counsel, in the case of M/ s SHABNAM HASHMI v. UNION OF INDIA (WP(Civil).No.470 of 2005) decided by the Hon'ble Supreme Court on 19.02.2014, the Hon'ble Supreme Court had merely opined that the right to adopt is part of Article 21 of the Constitution of India. Moreover, although the Muslim Personal Law does not recognize adoption, it does not prohibit a childless couple from taking care and protecting a child with material and emotional support. Therefore, according to the learned counsel, the adoption so made by Late Syed Zahid Ahmed is legally valid.

6. The position being taken by the learned counsel for the petitioner is highly misplaced. For, even if there is no emphatic bar under the Muslim Personal Law to adoption, even then there is no recognition of adoption under the said law. Thus, even if certain ceremonies were performed, the adoption cannot be said to be legal or legitimate one in the eyes of law.

7. Since adoption is not recognized, obviously, the petitioner cannot claim to be the adopted son of Late Syed Zahid Ahmed. In a catena of cases, the Hon'ble Supreme Court has clearly held that compassionate appointment is by way of exception and not by way of right. Therefore, the petitioner cannot even claim right to compassionate appointment. Lastly, the alleged adoptive father of the petitioner had expired in 2012. The petitioner, having survived seven long years after the sudden death of his alleged adoptive father, cannot claim that he is under financial distress to the extent that he should be appointed on compassionate ground. Therefore, the petitioner is not justified in claiming that he has a right to compassionate appointment.

For the reasons stated above, this Court does not find any illegality or perversity in the impugned order. The writ petition is, hereby, dismissed. As a sequel, the miscellaneous petitions, pending if any, shall stand dismissed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J

December 4, 2019
DSK