

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION (TR) No.4809 of 2017

ORDER:

This writ petition is filed seeking the following relief :-

“....to call for the records of the 1st respondent issued vide Proc.No.4497/ E/ 2013 dated 5/ 5/ 2015 and set aside the same by declaring the same as void, illegal, arbitrary, unconstitutional, contrary to the guidelines issued by the Government and violative of Articles 14 and 16 of the Constitution of India and consequently direct the respondents to consider the case of the applicant for appointment on compassionate grounds in any suitable post under the control of respondents as per G.O.Ms.No.118, dated 18.8.1999”.

Heard Mr.M.Bharat Shah, learned counsel for the petitioner and the learned Government Pleader for Services-II.

It has been contended by the petitioner that his mother was appointed as a contingent employee with the respondents in the year 1987 and subsequently, she was converted as a full time contingent worker and she worked continuously and she is fully eligible for regularisation of her services, but on account of administrative lapses, her services could not be regularized and she died on 19.02.2013 while discharging duties with the respondents. The State Government has taken a policy decision to extend the scheme of compassionate appointment even in favour of the dependants of daily wage workers or NMRs or the persons appointed on consolidated pay or contingent workers, who are eligible for regularisation of their services and whose services could not be regularized on account of administrative lapses. The petitioner has submitted a representation to the respondents on 04.10.2013 requesting to consider his case for appointment on

compassionate grounds in terms of G.O.Ms.No.118 dated 18.08.1999. As the respondents have not considered the said representation, the petitioner has filed O.A.No.8930 of 2013 before the then A.P.Administrative Tribunal and the Tribunal vide order dated 20.12.2013 was pleased to grant interim direction to consider the case of the petitioner in terms of G.O.Ms.No.118 dated 18.08.1999. Pursuant to the said interlocutory order, the respondents have considered the case of the petitioner and rejected the same vide order dated 05.05.2015. Challenging the same, the petitioner has filed O.A.No.4935 of 2015 and the same was transferred to this Court and numbered as W.P.(TR).No.4809 of 2017.

Learned counsel for the petitioner submits that under the order impugned in the writ petition, the respondents have rejected the case of the petitioner on the ground that unless his mother's services are converted into regular post, it is not possible to appoint the petitioner on compassionate grounds. The said reasoning is not spelt out in G.O.Ms.No.118 dated 18.08.1999 and as the case of the petitioner was rejected vide order dated 05.05.2015, it goes against the letter and spirit of the policy of the State Government. Therefore, the impugned order is liable to be set aside and the respondents be directed to consider the case of the petitioner for appointment on compassionate grounds in terms of G.O.Ms.No.118 dated 18.08.1999.

Learned Government Pleader appearing for the respondents has contended that since the petitioner has not produced No Earning Member Certificate, No Property Certificate and Financial Status Certificate, the case of the petitioner was not considered.

Further, the petitioner's mother has completed the service of four years, one month, 25 days as a full time contingent worker as on the cut-off date i.e., on 25.11.1993 and since the petitioner's mother has not completed five years of service as on the said cut-off date prescribed in G.O.Ms.No.212, dated 22.04.1994, the case of the petitioner was not considered and the petitioner's mother is falling short of two years, six months and one day and if the petitioner submits an application, the respondents would consider the said shortfall of two years, six months and one day and regularize the services of petitioner's mother by converting as a full time contingent employee. Since the petitioner's mother was not a full time contingent employee, the case of the petitioner was not considered.

Learned Government Pleader further contended that the petitioner's mother was an illiterate and for treating her as a full time contingent employee, the educational qualification of petitioner's mother has to be relaxed and only after converting the petitioner's mother as a full time contingent employee, the case of the petitioner can be considered for compassionate appointment in terms of G.O.Ms.No.118, dated 18.08.1999.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that the petitioner's mother was already converted as a full time contingent employee on 01.08.1990 and the petitioner's mother was appointed in the year 1987 as Aaya on contingent basis, which would mean that the petitioner's mother had completed more than five years of service as on 25.11.1993 and she

was fully eligible and qualified to be relaxed as a last grade employee in terms of G.O.Ms.No.212, dated 22.04.1994 and the contention of the learned Government Pleader that the petitioner's mother has not completed five years of service as on cut off date is totally incorrect and contrary to record. Admittedly, the petitioner's mother was appointed as a contingent employee as Aaya on 31.03.1987 and she has been continuously discharging her duties till she expired on 19.02.2013. Further, under G.O.Ms.No.118 dated 18.08.1999, the State Government has taken a policy decision to extend the scheme of compassionate appointment even in favour of the dependants of daily wage workers or NMRs or persons appointed on consolidated pay or contingent workers, who are eligible for regularisation and whose services could not be regularized on account of administrative lapses. Admittedly, in the instant case, the petitioner's mother had worked as contingent/full time contingent employee till she expired on 19.02.2013. Therefore, the impugned order is liable to be set aside and it is accordingly set aside. The respondents are directed to consider the case of the petitioner in terms of G.O.Ms.No.118 dated 18.08.1999 and pass appropriate orders in accordance with law within eight weeks from the date of receipt of a copy of this order.

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

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 29-10-2019
Prv

