

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.(TR)No.4958 of 2017

ORDER

This Writ Petition is filed seeking the following relief:

“to call for records relating to impugned proceedings Proc.Rc.No.7207/B4/2014, dated 12.02.2015 of the 4th respondent and set aside the same duly declaring it as illegal, arbitrary, discriminatory, violative of Articles, 14,16 and 21 of the Constitution of India and consequently direct the respondents to appoint the 2nd applicant in any suitable post under compassionate grounds as per his eligibility and suitability and to pass such other and further order or orders.”

Heard Sri Venkateshwarlu Gummadavelly, learned counsel appearing for the petitioners, and learned Government Pleader for Services-II appearing for the respondents.

It is the case of the 1st petitioner that her younger son was employed as Secondary Grade Teacher and he was unmarried. Due to ill-health, he expired on 12.05.2013. Thereafter, the 1st petitioner has submitted an application seeking appointment on compassionate grounds to the 2nd petitioner, who is elder brother of the deceased employee. The respondents have considered the case of the 2nd petitioner, but rejected his case *vide* proceedings dated 12.02.2015. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioners contended that similar issue fell for consideration before the then Andhra Pradesh Administrative Tribunal in O.A.No.6120 of 2005 and the Tribunal *vide* order dated 06.11.2008 disposed of the same by interpreting G.O.Ms.No.612, dated 30.10.1991 and observing that when the State G.O deals with the younger brother and the younger sister and in case there is no younger brother or younger sister, the elder brother or elder sister of the deceased employee can be given employment under the said G.O. It is further submitted that aggrieved by the order passed by the Tribunal, the State has carried the matter by filing W.P.No.18661 of 2009 and that the Division Bench of this Court dismissed the same on 21.12.2009 and the said judgment was also reported in 2010(2) ALD 61 (DB). It is further contended that in view of the law laid down by the then Tribunal and also by the Division Bench of this Court, the respondents be directed to consider the case of the 2nd petitioner for appointment on compassionate grounds and pass appropriate orders.

Learned Government Pleader appearing for the respondents contended that the case of the 2nd petitioner was considered and rejected as the elder brother of the deceased does not fall under the scheme of compassionate appointment

as enunciated in G.O.Ms.No.612, dated 30.10.1991 and that the respondents have rightly rejected the case of the 2nd petitioner.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the impugned rejection order was passed without taking into consideration the order passed by the Tribunal in O.A.No.6120 of 2005 dated 06.11.2008, which was confirmed by the Division Bench in W.P.No.18661 of 2009, dated 21.12.2009. Therefore, the impugned rejection order dated 12.02.2015 is liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned rejection order dated 12.02.2015 is set aside. The respondents are directed to consider the case of the 2nd petitioner for appointment on compassionate grounds by duly taking into consideration the order passed by the Tribunal in O.A.No.6120 of 2005, dated 6.11.2008, which was confirmed by the Division Bench in W.P.No.18661 of 2009, dated 21.12.2009 and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 18.12.2019
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