

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WV.MP.No.2369 of 2017

in/and

WP.No.37912 of 2016

COMMON ORDER:

Petitioner belongs to SC community. Her mother had been murdered by persons belonging to other caste and the petitioner was appointed as a Daily Wage Worker on purely temporary basis vide proceedings No.B4/175/90, dt.21.08.1990 by the Deputy Director of Social Welfare, Karimnagar based on G.O.Ms.No.29 Social Welfare(H) Department, dt.08.03.1985 and posted in Government Social Welfare Residential School.

2. Petitioner filed O.A.NO.1762 of 2016 before the A.P. Administrative Tribunal for regularization of her services. She relied on the case of Smt K.Yashoda and M.Shantha, who were also appointed under G.O.Ms.No.29 as per the interim order passed on 29.04.2016 in O.A.No.6061 of 2015.

3. In O.S.No.1762 of 2016, the Tribunal directed the 3rd respondent i.e., Deputy Director of Scheduled Castes Development Department, to consider the case of the petitioner for appointment to Class-IV services or regularization into Class-IV services keeping in view the cases of Smt K.Yeshoda and M.Shantha within six weeks.

4. However, thereafter, the appointment given to Smt K.Yashoda and M.Shantha were cancelled by the District Collector on 26.08.2016.

5. In view of the said development, the Deputy Director of Scheduled Castes Development Department vide proceedings No.A2/214/2016, dt.31.08.2016 rejected the case of the petitioner for appointment to a regular post.

6. Assailing the same, this Writ Petition is filed.

7. On 04.11.2016 in W.P.MP.No.4670 of 2016 this Court granted interim direction, directing the respondents to continue the petitioner as a Daily Wage Worker in Government Scheduled Caste Girls Hostel, Metpally by suspending the impugned proceedings dt.31.08.2016 issued by the 1st respondent, pending disposal of the Writ Petition.

8. Counsel for the petitioner had placed reliance on G.O.Ms.No.29 dt.08.03.1985 and in para 2(x) of the said G.O., wherein it is stated as under:

“2(x). Government Employment:

- i) In cases of death or permanent incapacitation, one eligible member of the family including children or wife/husband or any adult member who would look after the family may be appointed to a suitable post under the Government or any Public Undertaking without the medium of Employment Exchange in relaxation of the existing rules in this respect. After filling up the vacancy, the appointing

authority will furnish all relevant particulars of the individual to the Employment Exchange with reference to the appointment made under this order. Such appointments should be made either by the District Collector concerned or with the prior approval of the District Collector.

- ii) Employment as above will also be arranged for rehabilitating victims of rape.”

9. Counsel also placed reliance on the Division Bench judgment of this Court in ***M.Santha v. State of Telangana and others***¹ wherein Smt M.Shanta, whose case the petitioner had relied upon, was granted relief by this Court.

10. In the said judgment, the Division Bench considered the case of Smt M.Shanta, who was an unfortunate victim of rape belonging to Scheduled Caste, and was appointed on temporary basis in the Government Scheduled Caste Girls Hostel on 05.03.1991 and had sought regularization of her services relying on G.O.Ms.No.212 dt.22.04.1994. The District Collector passed an order dt.05.01.2016 appointing her in a time scale of pay as Watch Woman with effect from 05.01.2016 with monetary benefits only with prospective effect. Within seven months of the said appointment she was given a show cause notice on 22.08.2016 stating why her appointment shall not be cancelled, and an order was passed on 22.08.2016 canceling the order of appointment

¹ 2018(2) ALD 63

dt.05.01.2016. Smt M.Shantha then filed W.P.No.35925 of 2016 challenging the said order, but the said Writ Petition was dismissed on the ground that her case was not covered by G.O.Ms.No.212 dt.22.04.1994. She then approached the Division Bench and the Division Bench relied on para 2(x) of G.O.Ms.No.29 dt.08.03.1985 and held that Smt M.Shantha is entitled to appointment under the said G.O., and she is entitled to all consequential benefits as per her appointment on 05.01.2016 as a regular employee.

11. WV.MP.No.2369 of 2017 is filed to vacate the order dt.04.11.2016.

12. The Government Pleader for Services-II appearing for respondents does not dispute the fact that the case of the petitioner is covered by the decision of the Division Bench in **M.Santha's** case(1 supra).

13. Since the petitioner is also belonging to Scheduled Caste Community and as per para 2(x) of the G.O.Ms.No.29 dt.08.03.1985, victims of atrocities belonging to SC community are entitled to Government Employment and since the petitioner falls under the said category because of murder of her mother by persons belonging to other communities, the respondents cannot refuse regular

appointment to the petitioner ignoring the benevolent nature of the said G.O., which was issued by the State for upliftment of women and victims of atrocities, who belong to the Scheduled Caste Community.

14. Accordingly, this Writ Petition is allowed; the impugned order dt.31.08.2016 in proceedings No.A2/214/2016 issued by the 1st respondent is set aside; and the respondents are directed to appoint the petitioner in Class-IV services, keeping in mind the fact that she had completed 24 years of service as Daily Wage Worker giving her benefit of clause 2(x) of G.O.Ms.No.29 Social Welfare (H) Department, dt.08.03.1985, within a period of four (04) weeks from the date of receipt of a copy of this order. Petitioner is also entitled to continue in service as Daily Wage Worker till such appointment is issued to her by the respondents. Consequently, WV.MP.No.2369 of 2017 is dismissed. No order as to costs.

15. Miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

15th April, 2019.

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