

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.46660 of 2016

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the impugned order of rejection in Memo dated 16.11.2016, issued by the 3rd respondent rejecting the application of the petitioner for compassionate appointment only on the ground that there were no vacancies available at the time of death of the father of the petitioner, as illegal, without jurisdiction and violative of Articles 14 and 21 of the Constitution of India and sought a consequential direction directing the respondents to consider the case of the petitioner for appointment on compassionate ground in any available vacancies as per his eligibility and suitability in terms of G.O.Ms.No.118, dated 18.08.1999.

2. Heard Sri S.Rahul Reddy, counsel for petitioner, Government Pleader for Agriculture, appearing for respondent No.1 and Sri B.Thimothi, Standing Counsel appearing for respondents 2 to 4.

3. It has been contended by the petitioner that his father worked as a casual labour with the 2nd respondent-University from September 1976 till his death i.e. March 2013. The petitioner submits that the services of his father could not be regularized for various administrative reasons, and even prior to regularization of service, the father of the petitioner expired while discharging his duties with the 2nd respondent-University, on 05.03.2013. The petitioner contended that the State Government has come up with a policy vide G.O.Ms.No.118, dated 18.08.1999, wherein,

the Government had elaborately considered the cases of deceased daily wage workers, NMRs, consolidated pay workers and contingent workers, who were either working on part-time/full time basis and whose services could not be regularized for administrative delays, and accordingly, their children were extended the benefit of compassionate appointment. Since the petitioner's father was working as casual labour and rendered more than 37 years of service and as his services could not be regularized during his lifetime, the petitioner has submitted a representation to the respondents to consider his case for compassionate appointment in terms of G.O.Ms.No.118, dated 18.08.1999. The 2nd respondent-University has considered the case of the petitioner and rejected vide Memo dated 16.11.2016 on the ground that the services of petitioner's father could not be regularized as no vacancy was available at relevant point of time, therefore, the case of the petitioner for compassionate appointment cannot be considered.

4. Counsel for petitioner submits that the action of respondents in rejecting the case of petitioner for appointment on compassionate ground in terms of G.O.Ms.No.118, dated 18.08.1999 is arbitrary, illegal and against the spirit of the policy adopted by the State Government. Therefore, counsel for petitioner contended that appropriate orders be passed in the writ petition by setting aside the impugned rejection Memo dated 16.11.2016 and further direct the respondents to consider the case of the petitioner for appointment on compassionate ground in terms of G.O.Ms.No.118, dated 18.08.1999.

5. The Standing Counsel appearing for respondents has contended that since there was no regular vacancy available for regularizing the services of petitioner's father and as no proposals were pending to regularize the services of the father of petitioner at the time of his death, G.O.Ms.No.118, dated 18.08.1999 is not applicable for the present case, therefore, there are no merits in the writ petition and it is liable to be dismissed.

6. This Court, having considered the rival submissions made by the parties, is of the considered view that the impugned rejection orders in Memo dated 16.11.2016 are passed by the 2nd respondent-University without application of mind, contrary to G.O.Ms.No.118, dated 18.08.1999. The availability of vacancy for consideration of the case of petitioner's father, has no relevancy. The petitioner's father rendered service for more than 37 years but his services could not be regularized due to administrative lapses, and in order to do justice to such of those persons who were continued on temporary basis for long years and whose services could not be regularized during their life time, the State Government has come up with the policy of providing compassionate appointment to the children of such temporary employees, who died while serving with the organization. The case of the petitioner deserves to be considered for appointment on compassionate ground in terms of G.O.Ms.No.118, dated 18.08.1999. Therefore, the impugned rejection order dated 16.11.2016 is contrary to the spirit of the policy of the State Government, and accordingly, it is set aside. The respondents are directed to consider the case of the petitioner for appointment on

compassionate ground in terms of G.O.Ms.No.118, dated 18.08.1999 and pass appropriate orders within a period of Eight weeks from the date of receipt of a copy of this order.

7. The writ petition is accordingly allowed. No order as to costs.
Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

28th October, 2019

ajr

