HIGH COURT OF ANDHRA PRADESH: AMARAVATI

CHIEF JUSTICE J.K. MAHESHWARI
AND
JUSTICE B. KRISHNA MOHAN

WRIT APPEAL No.334 of 2020

(Through Video Conferencing)

The Commissioner, AYUSH Department,
Andhra Pradesh, and others … Appellants

Versus

Kuraganti Raja Sekhar … Respondent

Counsel for appellants : GP for Services-I

Counsel for the respondent : G. Seena Kumar

ORAL JUDGMENT

Dt:17.12.2020

Per J.K. Maheshwari, CJ

Being aggrieved by the order dated 27.02.2020 passed in W.P.No.726 of 2020 by the learned single Judge, this writ appeal has been filed. By the said order, the learned single Judge, while setting aside memo No.3548/Ser.G/A2/2010-8, dated 17.12.2019, directed the authorities to consider the case of the respondent/writ petitioner in a suitable post along with all benefits which may accrue from the date of his application and to complete the entire exercise within a period of eight weeks from the date of receipt of the order.

2. Heard the learned Govt. Pleader appearing on behalf of the appellants, who placed reliance on Circular Memo No.3548/Ser.G/A2/2010-8, G.A. (Ser.G) Dept., dated 24.03.2012,

inter alia, contending that in terms of the policy decision vide G.O.Ms.No.687, GA (Ser.A) Dept., dated 03.10.1997, the issue regarding grant of compassionate appointment to the dependent member of the family to which pension is being paid has been considered and by the said circular memo, clarification has been issued observing the such persons are not entitled to claim compassionate appointment because pension would be treated as earning of the family.

3. Having heard learned counsel for the parties, we have perused the original policy for grant of compassionate appointment vide G.O.Ms.No.687 dated 03.10.1997. In the said G.O., there is a specific provision for grant of compassionate appointment to the spouse and the dependant family members in case the employee dies during course of employment. In the said G.O., the issue regarding earning or, on grant of pension, disentitlement of compassionate appointment has not been specified. In terms of the aforesaid, the circular memo, if any issued, in the form of clarification, contrary to the basic provision of G.O.Ms.No.687 dated 03.10.1997, has no application without amendment in the basic policy.

4. In view of the foregoing, the finding as recorded by the learned single Judge relying upon the judgment of the Division Bench of the erstwhile composite High Court cannot be found at fault and hence interference in this appeal is not warranted. It is suffice to observe that the direction issued by the learned single Judge for appointment

of the respondent/writ petitioner on a suitable post be now carried out within a period of one month from the date of production of certified copy of this order, with a clarification that all the benefits accruable from the date of application is not required to be observed in the matter of compassionate appointment.

5. The writ appeal is accordingly dismissed. No order as to costs. As a sequel, all the pending miscellaneous applications shall stand closed.

J.K. MAHESHWARI, CJ **B. KRISHNA MOHAN, J**

MRR