

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION No.16982 of 2015

31.01.2020

Between:

The Government of Andhra Pradesh and others

...Petitioners

and

D. Jagan Mohan and another

...Respondents

Counsel for the petitioner : AGP for Services

Counsel for the respondent No.1 : Ms. P. Kavitha

The Court made the following:



ORDER: (Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

With the consent of both the learned counsel for the parties, this case is being decided at this stage.

The petitioners have challenged the legality of the order dated 23.01.2015, passed by the learned Andhra Pradesh Administrative Tribunal, Hyderabad, whereby the learned Tribunal has allowed the O.A.No.4154 of 2012 filed by the respondent-applicant, and has directed the petitioners to consider the case of the respondent-applicant for compassionate appointment on medical invalidation grounds in a suitable post based upon his qualification, and to pass appropriate orders within a period of eight weeks from the date of receipt of a certified copy of the said order.

Briefly, the facts of the case are that the respondent-applicant is the son of Mr. Agamaiah. His father used to work as an Attender in the office of the Special Executive Magistrate, Hyderabad. On 09.08.1994, his father sought retirement on the ground of medical invalidation, and requested that his elder son, the respondent-applicant, should be appointed as an Attender on compassionate grounds. For, there is no other earning member in the family. Therefore, the family would face a grave financial crisis, in case the applicant's father were to be permitted to retire.

Having received the said application, the District Collector, Hyderabad, the petitioner No.2, forwarded the same to the Government of Andhra Pradesh, the petitioner No.1. During the pendency of the said application, the applicant's father died on 14.09.1998. Since the application dated 09.08.1994 was not processed by the petitioner No.2, the petitioner No.1 enquired upon

the petitioner No.2 and sought for a detailed explanation for the abnormal delay in processing the applicant's application. But, no such explanation was offered. Meanwhile, the respondent-applicant kept on corresponding with the petitioner No.1 and the petitioner No.2 from the year 2000 till 2012. The applicant finally filed the O.A.No.4154 of 2012 before the learned Tribunal. The said O.A was allowed by the impugned order dated 23.01.2015.

Before the learned Tribunal, the petitioners raised two pleas: firstly, the O.A was liable to be dismissed on the ground of delay and laches. Secondly, since the applicant's father had merely four years and ten months service left before the age of superannuation, under G.O.Ms.No.661 dated 23.10.2008, the applicant was not eligible for being appointed on compassionate grounds. For, according to the said G.O, the minimum requirement is of five years of service to be left before the employee reaches the age of superannuation.

Both these pleas have also been raised before this Court by the learned Additional Government Pleader appearing for the petitioners.

On the other hand, Ms. P.Kavitha, the learned counsel for the respondent-applicant, pleads that despite the fact that the application was given by the applicant's father in 1994, no action was taken on the said application by the petitioners. Meanwhile, the applicant kept on running from pillar to post seeking the appointment on compassionate grounds. But, despite his repeated pleas, the pleas fell on deaf ears. Therefore, according to the learned counsel, a legitimate case of a dependant of an employee

cannot be defeated by the employer by sitting over his application and maintaining a studied silence.

Secondly, according to the learned Tribunal, the applicant's father had almost six years of service left before his actual date of retirement. Therefore, the second plea raised by the petitioners before the learned Tribunal was rightly rejected by the learned Tribunal. Hence, the learned counsel has supported the impugned order.

Heard the learned counsel for the parties and perused the impugned order.

The scheme of appointment on compassionate grounds has, in fact, been introduced in order to protect a family from the grave financial crises which it is likely to face either on the demise of an employee, or on his medical invalidation. Therefore, it is the foremost duty of the employer to consider an application for appointment on compassionate grounds as expeditiously as possible, and certainly within a reasonable period of time. An employer cannot be permitted to maintain a studied silence thereby defeating the right of consideration of the applicant. Moreover, by maintaining a studied silence, the employer needlessly forces the family of the employee to face financial crises thereby defeating the very purpose of the scheme.

Admittedly, in the present case, the applicant kept on running from pillar to post, hoping against hope, that he will be appointed on compassionate grounds. But, despite his repeated pleas to the employer, his pleas were ignored. Therefore, the learned Tribunal is justified in concluding that the petitioners cannot be permitted to take the benefit of their own wrong by

maintaining a studied silence over the application filed by the applicant's father.

The issue whether the applicant's father had four years and ten months, or almost six years of service left before his retirement has been decided by the learned Tribunal. By letter, dated 01.10.2010, the District Collector, Hyderabad, had informed the Principal Secretary to Government, Revenue (Ser-III) Department, that at the relevant time, the applicant's father had "almost six years of left over service". Thus, the learned Tribunal is certainly justified in concluding that at the time of submission of the application in 1994, the applicant's father had almost six years of service left. Hence, the applicant is eligible under G.O.Ms.No.661 dated 23.10.2008 for his case to be considered. Therefore, the learned Tribunal is certainly justified in directing the petitioners to consider the case of the applicant on compassionate grounds and to appoint him on a suitable post.

For the reasons stated above, this Court does not find any illegality or perversity in the impugned order. Therefore, the present writ petition is devoid of any merit; it is, hereby, dismissed. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J

31st January, 2020
JSU

High Court for the State of Telangana**THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN****AND****THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY****WRIT PETITION No.16982 of 2015****(Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)****Date: 31.01.2020****JSU**