

**HONOURABLE SRI JUSTICE ASHUTOSH MOHUNTA
AND
HONOURABLE SRI JUSTICE N.RAVI SHANKAR**

WRIT PETITION No. 21460 OF 2000

DATED 25th April, 2013.

BETWEEN

Kum.M.Sulochana

.....Petitioner

And

Government of AP, rep. by its Secretary,
EFSXT Department, Secretariat, Hyderabad and ors.

...Respondents.

**HONOURABLE SRI JUSTICE ASHUTOSH MOHUNTA
AND
HONOURABLE SRI JUSTICE N.RAVI SHANKAR**

WRIT PETITION No. 21460 OF 2000

-
ORDER: (per AM.J.)

-
Heard the learned Counsel for the petitioner as well as
the learned Government Pleader appearing for the respondents.
Perused the case file.

This Writ Petition is filed being aggrieved by the order
dated 13.04.1998 passed in OA.No.5905 of 1996 by the Andhra
Pradesh Administrative Tribunal, Hyderabad, whereby the

request of the petitioner to appoint her as a Junior Assistant on compassionate grounds was turned down.

The petitioner's father, while working as a Junior Assistant under the control of the second respondent, took voluntary retirement on 27.6.1990 under the medical invalidation scheme and thereafter, made an application to the respondent authorities seeking to appoint his first daughter—K.Godavari on compassionate grounds. Though the petitioner's elder sister was offered with employment to the post of an Attender by order dated 20.10.1992, she failed to accept the same. However, the petitioner's father made another application to the respondent authorities on 22.10.1992. This time he requested for appointment of his second daughter, the petitioner herein, as a Junior Assistant on compassionate grounds. The second respondent by his order dated 2.8.1994 rejected the request of the petitioner's father on the ground that as on the date of the application on 22.10.1992 the petitioner did not possess the requisite qualifications to hold the post of Junior Assistant; and that his second application dated 22.10.1992 for appointment on compassionate grounds to his alternative nominee was also time barred. However, surprisingly, the third respondent-Prl. Chief Conservator of Forests, wrote a letter dated 12.4.1996 to the first respondent to consider the case of the petitioner for appointment on compassionate grounds purported in the light of G.O.Ms.No. 349, dated 12.6.1986 and G.M.No. 2047/Ser.4/83-1, General Administration Department, dated 10.10.1983 duly relaxing the time limit of two years stipulated for making an application in regard thereto. However, the Government through its proceedings dated 24.4.1996 and 31.5.1996 rejected the

request of the petitioner's father on the ground that relaxation of rules in regard thereto is against the standing instructions on the subject. Aggrieved thereby, the petitioner approached the Andhra Pradesh Administrative Tribunal through OA.No.5905 of 1996, which was dismissed by the order impugned in the Writ Petition declining to interfere with the policy decision of the Government. The petitioner therefore is before this Court by way of the present Writ Petition.

It is not necessary to go into all the details of the correspondence that took place between the authorities owing to the frequent representations made by the petitioner's father one after the other seeking employment to the petitioner to the post of Junior Assistant or any other suitable post on compassionate grounds. During the pendency of the Writ Petition, surprisingly, the second respondent by his proceedings dated 28.01.2009 making reference to all the instances and the proceedings that took place in the matter from the date of making the second application by the petitioner's father for compassionate appointment on 22.10.1992 to his second daughter till the date of this letter, requested all of a sudden the District Collector (Nodal Authority), Adilabad District to consider the case of the petitioner for compassionate appointment in terms of G.O.Ms.No. 661, GAD (Ser.G) Department, dated 23.10.2008 and the suggestion made by the Joint Collector, Adilabad in regard thereto, oblivious of the fact that the second respondent rejected such request of the petitioner's father as long as back as on 2.8.1994 which inter alia prompted the petitioner to file OA before the Tribunal and thereafter the present Writ Petition before this Court.

-

Be that as it may, the penultimate and concluding paras of the proceedings dated 28.01.2009 of the second respondent reads to the following effect:

“

XXXX	XXXX	XXX	XXX
XXXX	XXXX	XXX	XXX

Sri M. Ganganna, Jr. Assistant (Rtd) through his application dated 12.12.2008 has furnished the educational certificates of his second daughter Smt.M. Sulochana. On perusal of the said educational certificates she has passed Intermediate Examination held in October, 1993. Her date of Birth is 01.01.1974, so she has having a age of 35 years as on 1.1.2009. The vacancy position as per this office Roster Register (1) post of Junior Assistant is vacant at Roster Point No. 1-22 SC Women, which was caused vacant due to the dismissal from service of Sri Md. Bahauddin, Jr. Asst. being punishment in disciplinary charges vide Divisional Forest Officer, Adilabad Prc.No.5321/2001/S5, dated 03.11.2008.

As per the Revival of the scheme of compassionate appointment to the dependents of Government employees who retired on Medical Invalidation pension through G.O.Ms.No. 661, GA 5(Ser.G) Department, dated 23.10.2008. The District Collector is the Nodal Authority for providing employment to the dependants of the employees who retired on Medical Invalidation pension. Therefore it is requested to the District Collector, Adilabad (Nodal Authority) to kindly accord permission to consider the case for appointment of Smt. M.Sulochana daughter of Sri M.Ganganna, Junior Assistant who retired on Medical Invalidation on 28.06.1990 to meet the justice, as suggested by the Joint Collector, Adilabad in the reference above”

A copy of which was also marked to the father of the petitioner. Basing on this internal communication, the petitioner filed WPMP.No. 8731 of 2009 seeking to appoint her in the suitable post on compassionate grounds forgetting the fact that

the request of her father was turned down by the respondent authorities and later by the Tribunal. However, a Division Bench of this Court by an interim order 02.06.2009 directed the respondents to consider the case of the petitioner for compassionate appointment to any suitable post in terms of the proceedings of the second respondent dated 28.01.2009.

At this juncture, it is necessary to be noticed that when the respondent authorities have taken a stand to the effect that the request of the petitioner's father for providing compassionate appointment to the petitioner was time barred and that as on the date of the application on 22.10.1992 the petitioner did not possess requisite qualification to hold the post of Junior Assistant, and further when the Government vide its Memo dated 24.4.1996 refused to relax the rules to consider the case of the petitioner, which stand of the respondents was also, in fact, upheld by the Tribunal in the order impugned in this Writ Petition, it is not understandable as to how the respondent authorities once again initiated proceedings to make a request to the Government to relax the conditions in favour of the petitioner which is paradoxical to the earlier stand, and, that too, when the Writ Petition filed by the petitioner is pending adjudication before this Court.

Further, it may be relevant to notice that had the second respondent been really sympathetic in the matter, the request of the petitioner's father could have been considered in the year 1994 itself by considering the delay in making such request by the petitioner's father. In the light of this factual scenario, we

are unable to understand as to what special circumstances prompted the second respondent to request the District Collector (Nodal Authority), Nalgonda District, after fifteen years of the rejection of the request of the petitioner's father on the ground of limitation at that point of time. When application made on 22.10.1992 was considered and rejected on account of being time barred, perhaps by few months, it is again not understandable as to how the very same application came to be not time barred in the year 2009 which in fact evoked response by the second respondent, particularly when the writ petition is pending before this Court. It clearly demonstrates, according to us, the inconsistency in the executive action being exercised by the second respondent. This inconsistent exercise of executive action by the second respondent again prompted the petitioner to file WPMP.No. 8731 of 2009. We are pained to make note of these aspects and deprecate this kind of inconsistency being shown in the executive action by the second respondent ignoring the orders dated 24.4.1996 and 31.5.1996 whereby the request of the petitioner's father was duly rejected.

That apart, it is to be seen that once the Government provided a compassionate appointment as per the specific request of the petitioner's father to his elder daughter (elder sister of the petitioner), who in fact did not accept the same, the next request of the father of the petitioner, at his whims and fancies seeking employment this time to her second daughter does not stand to reason and is liable to be rejected. It is for the petitioner's father to choose in the first instance to whom employment is to be provided on compassionate grounds and

when once such compassionate appointment was, in fact, provided as requested by him, it is for him to accept the same or otherwise. He cannot be permitted to go on making representations endlessly till he gets the employment to the best of his satisfaction. This attitude on the part of the father of the petitioner is against the very object and purport of the scheme enunciated for providing employment on compassionate grounds.

In the light of the factual scenario obtaining in the case on hand, and forgoing discussion made hereinabove in detail, we do not find any merit in the Writ Petition which is liable to be dismissed.

In the result, the Writ Petition is accordingly dismissed. In consequence, the miscellaneous petitions pending consideration if any, including WPMP.No. 8731 of 2009 shall stand dismissed. There shall be no order as to costs.

JUSTICE ASHUTOSH MOHUNTA

JUSTICE N. RAVI SHANKAR

Dated 25th April, 2013.
Msnr_o

