

[3183]

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TENTH DAY OF APRIL
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT PETITION NO: 17334 OF 2020

Between:

P. Karthik Babu, S/o. Late P. Anand, Aged about 23 years, Occ. Un-employee,
R/o. H. No. 5-5-39, Ambedkar Nagar Colony, Rajendranagar, Hyderabad-030.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Agriculture and Cooperation Department. Secretariat, Hyderabad.
2. Professor Jaya Shanker Telangana State, Agriculture University, rep. by-its Registrar, at Rajendranagar, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing the impugned Memo No.13851/Comp.Appt./Ser.(NT)/A2/2013, dated 01.09.2020 rejecting the case of the petitioner for compassionate appointment in Agriculture University though the Hon'ble High Court in W.P.No.35659/2017, dated 03/07/2019 as confirmed by the Division Bench of the Hon'ble High Court in W.A.No.737/2019, dated 09/09/2019 only directed the 1st respondent to give age relaxation to the petitioner as given to other candidates for compassionate appointment and further though the 2nd respondent is not competent authority to pass such an order, as illegal, unlawful, contrary to law and against the above order passed by the Honourable High Court and consequently direct the 1st respondent to consider the case of the petitioner for compassionate appointment by giving age relaxation as given to the other candidates as per the above orders of the Hon'ble High Court.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to issue interim order directing 1st respondent to consider the case of the petitioner for compassionate appointment in Agriculture University in any post which is suitable to the qualification of the petitioner by giving age relaxation as considered by the Government in respect of other similarly situated candidates as per the orders passed by the Hon'ble High Court in W.P. No. 35659/2017, dated 03.07.2019 and W.A. No. 737/2019, dated 09-09-2019, by suspending the operation of the impugned memo No. 13851/Comp.Appt/Ser.(NT)A2/2013, dated 01/09/2020 issued by the 2nd respondent, pending disposal of main Writ Petition.

Counsel for the Petitioner: SRI. M. DAMODAR REDDY

Counsel for the Respondent No.1: GP FOR AGRICULTURE

Counsel for the Respondent No.2: SRI S. CHALAPATHI RAO (SC FOR PJTSAU)

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT PETITION No.17334 of 2020

ORDER:

This writ petition is filed challenging Memo No.13851/Comp.Appt./Ser.(NT)/A2/2013 dated 01.09.2020 wherein the case of the petitioner for compassionate appointment in the respondent No.2 – University was rejected.

2. It is the case of the petitioner that his father died in harness on 11.12.2012 while working as Tractor driver in the respondent No.2 – University leaving behind his mother, sister and himself as legal heirs. The petitioner was aged 15 years 8 months at the time of the death of his father. As there was no earning member, the mother of the petitioner filed an application seeking compassionate appointment for petitioner. The petitioner was then studying Intermediate and by taking into consideration his age, the case of the petitioner was not considered. The respondent No.2 proposed to provide compassionate appointment to the mother and sister of the petitioner. However, the mother of the petitioner persuaded the respondent No.2 to send proposals to the Government for age relaxation to the petitioner.

3. The aforesaid request was renewed from time to time and the petitioner in due course of time attained the age of 20 years

and at present, completed BA. The petitioner also acquired qualification of typewriting in Lower and also Higher in English. Accordingly, the petitioner made an application to the respondent No.2 to consider his case for compassionate appointment by giving age relaxation, as given in respect of other similarly situated candidates. The petitioner submitted representation dated 20.07.2017 along with G.O.Rt.No.1607 dated 27.10.2008 wherein the son of deceased employee, who was aged 15 years 2 months on the date of the death of the employee was considered for appointment and similarly, under G.O.Rt.No.1452 dated 08.09.2011 the case of another candidate was considered for age relaxation and for providing compassionate appointment.

4. Learned counsel for the petitioner contended that without considering the above GO's, the respondent No.2 issued the memo dated 11.10.2017 issued rejecting the case of the petitioner for compassionate appointment observing that the above GO's are not applicable. WP.No.35659 of 2019 was filed by the petitioner questioning the memo dated 11.10.2017 and this Court by order dated 03.07.2019 directed the respondent No.2 to submit proposals for appointment of the petitioner on compassionate grounds. In the above order, this Court also directed the respondent No.1 to consider the case of the petitioner and pass orders by giving age relaxation to the petitioner as mentioned in the above GO's.

Pursuant to the orders of this Court, the petitioner submitted application dated 15.07.2019 requesting the respondent No.2 to forward his case to the respondent No.1 for the purpose of age relaxation for appointment on compassionate grounds. The order of the learned Single Judge dated 03.07.2019 was challenged in WA.No.737 of 2019 by the respondent No.2 and the same was dismissed by a Division Bench of this Court by order dated 09.09.2019. Thereafter, the petitioner submitted representation dated 23.09.2019 to the respondent No.2 to refer his case to the Government for the purpose of age relaxation.

5. Learned counsel for the petitioner further contended that the respondent No.1 instead of considering the case of the petitioner, as considered in respect of other candidates for age relaxation, has illegally directed the respondent No.2 to take its own decisions to consider the case of the petitioner for compassionate appointment. The respondent No.2, who has earlier passed orders, which was subject matter of WP.No.35659 of 2017, has again passed the impugned order dated 01.09.2020.

6. Learned standing counsel for the respondent No.2 submitted that G.O.Ms.Nos.1607 and 1542, referred to above, wherein children of the deceased employees were given appointment, is not applicable to the case of the petitioner. The said GO's were issued

as special case stating that they cannot be a precedent in future. The petitioner cannot claim compassionate appointment as he was 16 years as on the date of the death of his father. The mother and sister of the petitioner were eligible for appointment at that point of time but they did not avail the opportunity. They compelled the respondent No.2 to provide compassionate appointment to the petitioner, who was not eligible on the date of death of this father. In obedience of the order of this Court in WP.No.35659 of 2017 dated 03.07.2019, the respondent No.2 has forwarded the representation of the petitioner along with relevant documents to the Government vide Univ.Lr.No.13851/C.A./Ser.(NT)/A2/2013 dated 09.10.2019. The Government vide Lr.No.5615/Agri.III(1)/2019 dated 13.08.2020 requested the respondent No.2 to take necessary action as per the rules in vogue. In the light of the instructions of the Government, vide letter dated 01.09.2020, the request of the petitioner was examined and negatived, as the petitioner was 16 years as on the date of death of father i.e. 11.12.2012 and other two eligible dependant family members viz. his mother and sister were already offered compassionate appointment and they have not availed the same.

7. Heard learned counsel for the petitioner and the learned standing counsel for the respondent No.2.

8. It is not is dispute that the power to grant age relaxation lies only with the Government. By order dated 03.07.2019 in WP.No.35659 of 2018, the respondent No.2 was directed to forward the representation of the petitioner to the respondent No.1 and the respondent No.1 was directed to consider the case of the petitioner for age relaxation. The learned Single Judge has also made reference to G.O.Rt.No.1607 dated 27.10.2008 and G.O.Rt.No.1452 dated 08.09.2011. Though age relaxation in the above two GO's were given by quoting that the same is given not to be treated as precedent and as special case respectively, it was incumbent upon the Government to take a pragmatic approach and examine the case of the petitioner for age relaxation in proper perspective.

9. There cannot be any doubt that the Government has power to grant age relaxation. Whether it is a special case or the earlier GO's are not to be treated as precedent, it is for the Government to take a realistic decision by recording proper reasons. Even assuming that the order granted vide GO's cannot be treated as precedent; it is not understandable as to how the Government can refuse the claim of the petitioner, who is similarly placed. Instead of taking of a decision granting age relaxation, which is the exclusive power vested in it, the respondent No.1, unfortunately, has directed the respondent No.2 to take a decision, which is totally unwarranted and cannot be countenanced.

10. In the light of the above observations, the respondent No.1 is directed to examine the representation of the petitioner dated 23.09.2019 for the purpose of age relaxation, as was granted vide G.O.Rt.No.1607 dated 27.10.2008 and G.O.Rt.No.1452 dated 08.09.2011. The Government shall record reasons by taking into consider the fact that the petitioner was aged 16 years at the time of death of his father on 11.02.2012 and also the fact that the mother and the sister, who were offered compassionate appointment, did not opt for the same and instead nominated the petitioner for employment. The decision shall be taken within a period of four (4) weeks from the date of receipt of a copy of this order and the same shall be forwarded to the respondent No.2 for further action on the application of the petitioner for compassionate appointment.

The writ petition is accordingly allowed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

SD/- MOHD.SANAULLAH ANSARI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

- To,**
1. The Principal Secretary, Agriculture and Cooperation Department, State of Telangana, Secretariat, Hyderabad.
 2. The Registrar, Professor Jaya Shanker Telangana State, Agriculture University at Rajendranagar, Hyderabad.
 3. One CC to SRI. M. DAMODAR REDDY Advocate [OPUC]
 4. Two CCs to GP for Agriculture, High Court for the State of Telangana at Hyderabad. [OUT]
 5. One CC to SRI. S. CHALAPATHI RAO (SC FOR PJTSAU) [OPUC]
 6. Two CD Copies

CHR

BS

HIGH COURT

DATED:10/04/2023

ORDER

W.P.No.17334 of 2020



**ALLOWING THE WRIT PETITION
WITHOUT COSTS**

*(8) msa
17/4/2023*