

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

**WEDNESDAY, THE NINTH DAY OF AUGUST
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SRI JUSTICE ANIL KUMAR JUKANTI**

WRIT PETITION NO: 33708 OF 2017

Between:

Bathula Ravinder, S/o. Lingaiah, Village Servant, R/o. Godishal V, Saidapur
Mandal, Karimnagar district

...PETITIONER

AND

1. The State of Telangana, Rep. by Principal Secretary, Revenue Department, Secretariat Buildings, Saifabad, Hyderabad.
2. The Joint Collector, Karimnagar District, Collectorate Karimnagar.
3. The Revenue Divisional Officer, Karimnagar division, Karimnagar
4. Chintha Thirupathi, S/o. Late Chintha Kanakaiah, Pharmacist (S.C. Railway), R/o. Railway Hospital Kothagudem, Khammam district.

...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 a writ, order or direction more particularly one in the nature of writ of certiorari calling the records relating to OA No. 1904/2006 dated 11.11.2011 consequently set aside the same and allow the OA by setting aside the memo No. 43698/VO.1/2001-12 dated 02.12.2014 issued by the respondent No.1 confirming the order of the 2nd respondent in CA No.2 of 1992 dated 02.07.1993 and also to set aside the memo No.12023/Vo.1/05-1 dated 19.4.2005 issued by the respondent No. 1 and direct the respondents reinstate the petitioner in to service and to pay all consequential benefits, such back wages, seniority and other attendant benefits.

Counsel for the Petitioner: SRI V.RAVI KUMAR

Counsel for the Respondent No.1 to 3: GP FOR SERVICES-II

Counsel for the Respondent No.4: --

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

AND

THE HON'BLE SRI JUSTICE ANIL KUMAR JUKANTI

Writ Petition No.33708 of 2017

ORDER : *(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

This Writ Petition is filed by the petitioner under Article-226 of the Constitution of India seeking a 'Writ of Certiorari' by calling for records relating to the order passed by the Andhra Pradesh Administrative Tribunal (for short, 'the Tribunal'), Hyderabad in O.A.No.1904 of 2006, dated 11.11.2011 and to quash the same.

2. Heard Mr. V. Ravi Kumar, learned counsel for the petitioner and the learned Government Pleader for Services-II, appearing for the respondents.

3. Learned counsel for the petitioner contended that the petitioner was appointed as Village Servant in pursuant to the notification, dated 02.04.1992. However, at the instance of the 4th respondent the respondents have cancelled the appointment of the petitioner vide proceedings, dated 02.07.1993. The 4th

respondent is the son of Sri. C. Kanakaiah, a village servant who passed away on 02.12.1991. Thereafter, the Mandal Revenue Officer has issued a notification for appointment to the post of Village Servant and in pursuant to the said notification, the petitioner has responded to the notification and after undergoing regular selection process, he was appointed as Village Servant.

4. Learned counsel for the petitioner had further contended that Sri. C. Kanakaiah was earlier village servant and had two sons namely C. Sammaiah and C. Thirupathi, both of them are Government employees and they are not seeking compassionate appointment. However, the respondents have cancelled the appointment of the petitioner vide proceedings, dated 02.07.1993 on the ground that whenever Village Servant expires, then authorities must wait for one (1) year, so as to enable the legal heirs to seek compassionate appointment and then issue a notification. The M.R.O has not waited for one year

and the appointment of the petitioner was also cancelled. If the MRO has followed the procedure, then the petitioner cannot be allowed to be blamed and moreover, the 4th respondent was not claiming compassionate appointment. The 4th respondent was already an employee as 'Pharmacist' in South Central Railway Hospital and when the 4th respondent was not claiming the compassionate appointment, then the question of cancelling the appointment of petitioner would not arise. Thereafter, the petitioner has approached the Government aggrieved by the cancellation of appointment orders and the Government vide memo, dated 02.12.2004 was pleased to reject the appeal preferred by the petitioner. Later, the petitioner has challenged the cancellation of his appointment orders by the respondents before the Tribunal by filing O.A.No.1904 of 2006 and the Tribunal has dismissed the O.A vide orders, dated 11.11.2011 without appreciating any of the contentions raised by the petitioner .

5. Learned counsel for the petitioner further submitted that when the 4th respondent is not seeking compassionate appointment, then there would be no need to cancel the appointment of the petitioner. Therefore, appropriate orders be passed in the writ petition by setting aside the orders passed by the Tribunal in O.A.No.1904 of 2006, dated 11.11.2011 and further direct the respondents to consider the case of the petitioner for appointment as Village Servant and allow the writ petition.

6. On the other hand, the learned Government Pleader appearing for respondents had contended that appointment of the petitioner was cancelled way back in 1993. Later, the petitioner has approached the Tribunal in 2006 and the O.A itself was dismissed by the Tribunal in 2011. Finally, the petitioner has approached this Court in 2017 and at this point of time, entertaining the writ petition may not arise and since, M.R.O has not followed the procedure and without waiting for one year from the date of death of

the Village Servant has issued a notification and in pursuant to the said notification only, the petitioner was appointed and that itself means that the petitioner's appointment is irregular and it is contrary to the Rules. However, the Tribunal was justified in dismissing the O.A . Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

7. This Court having considered the rival submissions made by the parties is of the view that the Tribunal failed to appreciate that the 4th respondent has not claimed any compassionate appointment and in the absence of the 4th respondent in not claiming compassionate appointment, the respondents were not justified in cancelling the appointment of the petitioner and the petitioner got appointed in pursuant to the notification issued by the M.R.O. Therefore, the Tribunal ought not to have dismissed the O.A, however, ends of justice would be met, if the writ petition is disposed of directing the petitioner to submit fresh representation within two (2) weeks

seeking claim for appointment as Village Servant afresh and upon such representation being received, the respondents shall consider the same and pass appropriate orders without being influenced by the observations made by the Government in their memo, dated 02.12.2004 and also without being influenced by the orders passed by the Tribunal.

8. With these observations, the Writ Petition is disposed of. No costs.

9. As a sequel, miscellaneous applications pending if any in this Writ Petition, shall stand closed.

SD/-N. SRIHARI
ASSISTANT REGISTRAR

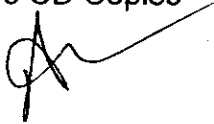
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SECTION OFFICER

To,

1. The Principal Secretary, Revenue Department, Secretariat Buildings, Saifabad, Hyderabad, Telangana State.
2. The Joint Collector, Karimnagar District, Collectorate Karimnagar.
3. The Revenue Divisional Officer, Karimnagar division, Karimnagar
4. One CC to SRI V.RAVI KUMAR, Advocate [OPUC].
5. Two CCs to GP FOR SERVICES-II, High Court for the State of Telangana at Hyderabad [OUT]
6. Two CD Copies

BSR
RK



CC TODAY

HIGH COURT

DATED: 09/08/2023

ORDER

WP.No.33708 of 2017



DISPOSING OF THE WRIT PETITION,
WITHOUT COSTS

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KMS
18-09/11/2024