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APHC010313872023

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI (Special Original Jurisdiction) **[3543]**

MONDAY, THE 12TH DAY OF OCTOBER 2026

PRESENT

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

WRIT PETITION No: 16633 of 2023

Between:

1. MOGILIPUVVU SURESH, S/o.LATE MOGILIPUVVU RAMBABU, AGED ABOUT 43 YEARS, OCC. UNEMPLOYED, R/O. D.NO.18-3-9, BACK SIDE OF LIC. KANIGIRI ROAD, KANDUKUR 523 105, NELLORE DISTRICT, A.P.

...PETITIONER

AND

1. THE HIGH COURT OF ANDHRA PRADESH, REP.BY THE REGISTRAR, ADMINISTRATION, HON'BLE HIGH COURT OF ANDHRA PRADESH, AMARAVATI.
2. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVT., LAW AND JUSTICE, A.P. SECRETARIAT, AMARAVATI.
3. HONOURABLE DISTRICT JUDGE, PRAKASAM DISTRICT AT ONGOLE, ANDHRA PRADESH.

...RESPONDENT(S):

Counsel for the Petitioner:

Mr. THANDAVA YOGESH

Counsel for the Respondent(S):

1. GP FOR SERVICES I
2. Mr.D V SASIDHAR

The Court made the following order: (Per NJS, J)

Petitioner's father one Mr.Mogilipuvvu Rambabu died on 27.06.2020 while working as a Field Assistant in Senior Civil Judge's Court, Kandukur, Prakasam District. *Vide* application dated 01.10.2020, petitioner sought appointment on compassionate grounds.

2. Learned District Judge, Prakasam District / respondent No.3, returned the said application and issued Official Memorandum dated 28.12.2020, citing the following reasons:

> "1.The maximum age limit of the dependent family member of the deceased government employee shall be 33 years for Open Category, as per Rule VI (a) of Cir.Memo.No.60681/Ser.A/2003-1, General Administration (Ser.A.) Department, dated 12.08.2003.
>
> 2. The age of Sri M.Suresh who is the 2nd Son of (Late) Mogalipuvvu Rambabu, formerly Field Assistant seeking appointment on compassionate grounds is **41 years, 01 month and 22 days,** as on the date of application."

3. Petitioner submitted another application dated 04.01.2021 with a request to relax the age limit and the 3rd respondent forwarded the same to the 1st respondent / High Court of Andhra Pradesh. Through Order in R.O.C.No.135/2021-C6 dated 19.08.2021, the application of the petitioner was rejected *inter alia* on the premise that as on the date of submission of application, the petitioner is aged 41 years 01 month 22 days and is clearly over aged. Subsequently, on 30.03.2022, the petitioner made a representation to the 1st respondent stating that as per Rule 33 (b) of Andhra Pradesh

Judicial Ministerial and Sub-ordinate Service Rules, 2019 (for short 'APJMSS'), the High Court (Head of the Department) is empowered and competent to relax any of the Rules to provide compassionate appointment in respect of posts that carry lesser scale of pay than that of Junior Assistant. Yet another representation was made on 20.04.2022. Ultimately, respondent No.1, rejected the petitioner's request *vide* R.O.C.No.135/2021-C6, dated 09.01.2023. Hence the present writ petition, seeking the following relief:

> "……to issue an appropriate Writ or Order particularly in the nature of a Mandamus directing the Hon'ble Principal District Judge, Prakasam District at Ongole for appointment of the Petitioner in a suitable post of judiciary department forthwith, by relaxing the upper age limit and to accord all consequential benefits as per law from the date of the petitioner's 1st application dt.06.10.2020 for appointment on compassionate grounds and to pass such other order or orders as this Court may deem fit and proper in the interest of justice."

4. Heard Mr.Tandava Yogesh, learned counsel for the petitioner. Also heard Mr.D.V.Sasidhar, learned counsel appearing on behalf of respondents 1 and 3.

5. Learned counsel for the petitioner *inter alia* contended that as per the Scheme of compassionate appointment formulated *vide* Cir.Memo.No.60681/Ser.A/2003-1, General Administration (Ser.A.) Department, dated 12.08.2003, the compassionate appointment shall be against direct recruitment quota. In the Compassionate Appointment Scheme, the maximum age limit shall be 33 years for Open Category and for

Scheduled Caste and Scheduled Tribe / Backward Classes, 5 years age concession is contemplated. However, by virtue of Government Orders in G.O.Ms.No.52 dated 17.06.2020 relaxing the upper age limit from 34 to 42 years for Public Employment till 30.09.2021, the maximum age limit for compassionate appointment shall be treated as 42 years and as such, rejection of the petitioner's request for compassionate appointment is not tenable. He also submits that in a similar case of one Smt.Deeduvanu Lakshmi Kalyani, the upper age limit was relaxed and the appointment under compassionate grounds was made, though she is aged about 49 years. He submits that age limit prescribed by Government was adopted by High Court in so far as recruitment to Ministerial Services is concerned. Reference to the relevant portion of the Notification dated 21.10.2022 issued by the High Court for Direct Recruitment to the post of Junior Assistants, Typists and Field Assistants, stipulating to upper age limit of 42 years as per G.O.Ms.No.101 dated 30.09.2022 was made. He submits that in the light of the said factual scenario, rejection of the petitioner's application for compassionate appointment is not valid. It is his contention that when the Statutory Rules govern Direct Recruitment prescribing certain guidelines for compassionate appointment restricting the age limit is not tenable and Circular Memo dated 12.08.2003 cannot override the Statutory Rules. Referring to the averments in the counter-affidavit, more particularly, Para No.9, the learned counsel would further contend that granting age relaxation to the spouse of a deceased employee and denying the same to the children / dependent members of the

deceased employee amounts to discrimination. If such distinction is drawn, he contends that the very object of the compassionate appointment scheme would be defeated. He also relied on the decision of a learned Single Judge of this Court dated 11.04.2022 in W.P.No.20266 of 2021 to buttress his contentions.

6. Mr.D.V.Sasidhar, on the other hand, while refuting the said contentions, made submissions to sustain the action of respondents in rejecting the request of petitioner for relaxation of upper age limit. He contends that G.O.Ms.No.52 dated 17.06.2020 is applicable only to appointment by Direct Recruitment, but not compassionate appointments. He contends that the case of Smt. Lakshmi Kalyani referred to by petitioner stands on a different footing. As per Circular Memo No.59011/Ser.G/2004-1, dated 03.06.2004, the upper age limit for appointment of spouse of the deceased on compassionate grounds is 45 years as on the date of submission of application and age relaxation in her case was at the discretion of the 1st respondent. Whereas, the petitioner being son of the deceased employee cannot seek the same benefit or relaxation in age. He submits that compassionate appointment is not a matter of right and rejection of petitioner's case to appointment on compassionate grounds is justified, in the facts and circumstances of the case. He also placed reliance on the decisions of the Hon'ble Supreme Court in 1) **The State of West Bengal v. Debabrata Tiwari & Ors.,**[1] **2) Tinku v.**

[1] 2023 LiveLaw (SC) 175

State of Haryana[2] and 3) **State of Madhya Pradesh & Ors., v. Amit Shrivas**[3] etc.

7. This Court has considered the submissions made and perused the material on record.

8. At the outset, it may be pertinent to mention that the objective of Scheme of compassionate appointment is to provide immediate relief to the family in distress of the deceased Government Employee. To help the families of its' employees who died in harness, Government prepared a comprehensive note on the Scheme of compassionate appointment to the dependents of the deceased Government employees *vide* Circular Memo No.60681 / Ser.A. / 2003-1, General Administration (Ser.A.) Department, dated 12.08.2003. In terms of the said Scheme, one of the dependant family members of the deceased Government Employee, who died in harness, there being no other earning member in the family(emphasis supplied) is eligible for appointment to a job in Government Service.

9. As noted above, learned Principal District Judge rejected the application of the petitioner for compassionate appointment, as the maximum age limit of the dependent family member of the deceased Government Employee is 33 years for Open Category in terms of the Scheme. Admittedly, the petitioner belongs to Open Category and as on the date of seeking

[2] 2024 INSC 867
[3] (2020) 10 SCC 496

appointment on compassionate grounds, he is aged about 41 years one month and 22 days.

10. However, the application of the petitioner was liable to be rejected at the threshold, without even reference to his age, much less maximum age limit stipulated under Circular Memo dated 12.08.2003. As observed by the Hon'ble Apex Court in **Umesh Kumar Nagpal v. State of Haryana**[4]**,** the object of granting compassionate employment is to enable the family of deceased Government Employee to tide over the sudden crisis by providing gainful employment to one of the dependent of the deceased who is eligible for such employment. That mere death of an employee in harness does not entitle his family to such source of livelihood; the Government or the Public Authority concerned has to examine the financial condition of the family of the deceased and it is only, if it is satisfied that, but for the provision of employment, the family will not be able to meet the crisis, that a job is to be offered to the eligible member of the family, provided a Scheme or Rules provide for the same.

11. In **State of West Bengal v. Debabrata Tiwari's case** referred to supra, the Hon'ble Supreme Court, after referring to the earlier precedents laid down some of the principles governing compassionate appointments. In Para 7.4 of the said Judgment, it was held that "the *sine qua non* for entertaining a claim for compassionate appointment is that the family of the deceased employee would be unable to make two ends meet without one of the dependants of the

[4] (1994) 4 SCC 138

deceased employee being employed on compassionate grounds. The financial condition of the family of the deceased, at the time of the death of the deceased, is the primary consideration that ought to guide the authorities' decision in the matter."

12. In the case on hand, one crucial aspect which missed the attention of the respondents is the "Letter of No Objection(Ex.P6)" submitted by the petitioner along with his application seeking compassionate appointment. Elder brother of the petitioner one Mr.Vamsi Krishna in Ex.P6 clearly stated that "I am elder son of my parents. I am working as software engineer in private sector. I am not interested to take the above said post at present and future also. I have a younger brother M.Suresh who is also eligible for the post. I would request to consider my younger brother name M.Suresh, for the post under compassionate grounds. I have No Objection for consideration of his name for the post."

13. In the light of the above admitted position that the petitioner's elder brother is a Software Engineer, the very basis for compassionate appointment to provide succour to financial difficulties of the family of the deceased employee does not exist. The claim for compassionate appointment as contemplated in the Circular Memo dated 12.08.2003 to a job in Government Service to one of the dependent family members of the deceased Government employee who died in harness can be considered only if there is no other earning member in the family. As the elder brother of the petitioner is working as Software Engineer, the petitioner's request for compassionate

appointment therefore, cannot be accepted. The writ petition is liable to be dismissed on this score, without going into the other aspects.

14. However, having heard the learned counsel at length, we deem it appropriate to further examine the matter by formulating the following points for consideration:

> 1) Whether the compassionate appointment beyond the upper age limit of 33 years as fixed *vide* Circular Memo No.60681 / Ser.A./2003-I, General Administration (Ser.A.) Department dated 12.08.2003 can be made by extending the maximum age limit as prescribed for appointment by Direct Recruitment?
>
> 2) Whether the relaxation of age limit granted to spouse of a deceased Government Employee can be extended to the other dependent members / children of the deceased employee while making compassionate appointment?

15. As per Para-II of the Scheme, dependant family member means (a) Spouse, (b) son / daughter of regular Government Employees. The said para deals with different contingencies / aspects with regard to compassionate appointment of the family members of the deceased-employee. However, the same is not germane for consideration in the present case. Para No.4 of the Scheme refers to nature of appointment and the same is reproduced hereunder for ready reference:

> "**IV. NATURE OF APPOINTMENT:**
>
> The temporary appointment of a spouse or any dependent of a deceased Government servant can be considered for regular appointment without subjecting them to the normal process of recruitment as provided in the relevant recruitment rules provided

such family members of the deceased servant satisfy other conditions of recruitment prescribed in the rules such as age and educational qualification. However;

(a) A formal notification of vacancy may be made to the Employment Exchange;

(b) After filling up the vacancy, the appointing authority will furnish all relevant particulars of the candidate to the Employment Exchange.

(c) Such appointments should be made under intimation to the Director, Employment and Training excepting in case of High Court.

These appointments are outside the purview of District Selection Committees / Andhra Pradesh Public Service Commission.

The application for appointment shall be submitted by the dependents within one year from the date of demise of the Government Employee.

In case the dependent children are minors, below 18 years of age, if such minors attain the age of 18 years within two years from the date of death, the application for appointment will be considered for compassionate appointment.

As the Scheme of compassionate appointment is to provide immediate relief to the family in distress of deceased Government employee, orders on re-deployment of surplus man power or any ban on recruitment are not applicable for the appointment made under the compassionate appointment scheme.

If the dependent of the deceased Government employee is Women, she may be considered for compassionate appointment anywhere in the State, where she feels secured."

Para VI of the Scheme deals with eligibility:

"(a) The maximum age limit shall be 33 years for Open Category, and for Scheduled Caste / Scheduled Tribe / Backward Classes 5 (Five) years age concession shall be given.

(b) The qualifications as prescribed in the Rules for the post for which the compassionate appointment is made;

(c) The eligibility of the candidate in terms of his / her educational qualification has to be reckoned with the date of application of the dependent of the deceased Government Employee for appointment, as the applications for appointment from such persons shall be entertained within a period of one year from the date of occurrence of the death of Government servant.

(d) The spouse of the deceased employee may be appointed initially on temporary basis by the appointing authority after being allotted by the nodal agency concerned and if such an appointment requires relaxation of age, necessary proposal should be sent to the administrative department concerned in Government for taking further action for relaxation of the age rule."

16. Para No.VIII (ii) contemplates that compassionate appointment shall be against direct recruitment quota.

17. Para IX of the Scheme contemplates the payment of ex-gratia to be paid to the distress family of a deceased employee where the relief by way of appointment of the dependants cannot be considered to the widow, dependent of the deceased employee. It also contemplates that the ex-gratia should be sanctioned, only in case of death in harness and where the family has no other earning member in the family and no suitable persons for appointment under the scheme of compassionate appointments is available. Further, the children should be minors and the spouse / or any other dependent does not avail compassionate appointment.

18. Though at the first blush, rejection of petitioner's application for compassionate appointment and representation seeking relaxation of upper age limit, in the light of the above Scheme appears to be valid; but the

contention to the effect that as the compassionate appointment is against direct recruitment quota, the maximum age limit prescribed for direct recruitment shall be applicable to the said compassionate appointment cannot simply be brushed aside. It gains significance more particularly in the light of Para IV of the Scheme, r/w Para VIII (ii) of the Scheme referred to supra.

19. Para IV of the said Scheme contemplates that appointment of a spouse or any dependent of deceased Government Servant can be considered provided such family members of the deceased servant satisfying the conditions of recruitment prescribed in Rules such as age and educational qualifications. As per Para VIII (ii), compassionate appointment shall be against direct recruitment quota.

20. In W.P.No.20266 of 2021, on which strong reliance was placed by the learned counsel for the petitioner, learned Single Judge discussed this aspect at length. In principle, to the extent of making applicable the upper age limit as prescribed for appointment under direct recruitment to that of compassionate appointment and reasoning thereof is well founded. However, the view to the effect that the dependent children are also entitled to the concession / benefit of age relaxation as that of spouse of deceased employee as contemplated under Para VI (d) of the Circular Memo dated 12.08.2003 in our opinion, is not in tune with the said Scheme. Para VI(d) of the Scheme provides for relaxation of age, exclusively to the spouse of deceased employee. Even in respect of the spouse, the relaxation cannot be beyond 45 years. Proviso to Rule 12 (1) (b) (iii) of Andhra Pradesh State and Subordinate Service Rules,

1996 inserted *vide* G.O.Ms.No.144 G.A.(Ser.D) Department dated 15.06.2004 w.e.f., 11.12.2003 contemplates that for compassionate appointment to the spouse of deceased Government Employee, the upper age limit shall be 45 years irrespective of community and obviously the same appears to have not been brought to the notice of the Court while dealing with the above referred writ petition. Be that as it may. The benefit / concession of upper age relaxation conferred to spouse of deceased employee cannot be extended to other dependents. Points are answered accordingly.

21. The other contention with reference to age relaxation to some other persons holds no water.

22. In **Tinku v. State of Haryana & Ors.,**[5] the Hon'ble Supreme Court at Para No.9 held as follows:

> "9……If some wrong benefit has been conferred or some benefit which is contrary to the scheme has been granted, it would not bestow a right upon the others to claim it as a right of equality by reference to Article 14 of the Constitution of India."

23. Further, at Para No.12, it was held as follows:

> "12……
> ……
> Compassionate appointment is, therefore, provided to bail out a family of the deceased employee facing extreme financial difficulty and but for the employment, the family will not be able to meet the crisis. This shall in any case be subject to the claimant fulfilling the requirements as laid down in the policy, instructions, or rules for such a compassionate appointment."

[5] 2024 INSC 867

24. As reiterated by the Hon'ble Supreme Court in **State of Madhya Pradesh Ors., v. Amit Shrivas case** referred to supra, there cannot be any inherent right to compassionate appointment, but rather, it is a right based on certain criteria, especially to provide succour to a needy family.

25. Considering the factual and legal position of the case, we see no merit in the writ petition and the same is accordingly dismissed. No costs.

Consequently, all pending applications, if any, shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D.SEKHAR

Date: 12.10. 2026
BLV

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

W.P.No.16633 of 2023

Dt: 12.10. 2026

BLV