
(1999) 11 AP CK 0096

In the Andhra Pradesh High Court

Case No : Review W.P.M.P. No. 29443 of 1999 in Writ Petition No. 11724 of 1999

APSRTC and Another

APPELLANT

Vs

P. Bala Tripura Sundari

RESPONDENT

Date of Decision : 16-11-1999

Acts Referred:

Citation : (2000) 1 ALT 463

Hon'ble Judges : B.S.A. Swamy, J

Bench : Single Bench

Advocate : T. Nanda R. Rao, for the Appellant; S.M. Subhan, for the Respondent

Judgement

B.S.A. Swamy, J.—This application is filed to review my order dated 30-09-1999 by raising the following grounds:

In the above order it is mentioned that the Hon"ble Supreme Court has not passed any stay orders with regard to reduction of height for women candidates for appointment to the post of Conductors, though the Supreme Court granted stay of the judgment in Writ Appeal No. 1055/97.

3. In the light of the submission made by the Counsel, that portion of the judgment is deleted.

4. Nextly, it is contended that the dependant of the deceased employee can be considered for appointment to the posts of driver, conductor, cleaner or sweeper only on compassionate grounds, but not for any other post. In support of her contention she produced a bunch of circulars issued by the respondent-Corporation from time to time. I need not refer to all the circulars as the issue is clinched by Circular No. PD-64/ 1988, dated 13-07-1988 only. In this Circular the Corporation specified the posts for which the dependants of the deceased employees can be considered. It is useful to extract Clause Nos. 3 and 4 of the said circular.

"3. The spouse or daughter is eligible to be considered for the post of

Stenographer/typist subject to passing in the proficiency test.

4. The spouse or unmarried daughter or son of deceased employee in possession of degree in any discipline of recognized University is eligible to be considered for the post of Jr. Clerk if vacancies exist".

5. From this it is seen that the appointments on compassionate grounds have to be considered not only for the posts of driver, conductor, cleaner or sweeper, but also to the posts in ministerial service viz., stenographers, typists, clerks. In clause 5, if a candidate is having NCC certificate apart from other qualifications, he is eligible to be considered for the post of Traffic Apprentice or Jr. Clerk.

6. In fact, the Counsel for the respondent-Corporation tried to take me to the other circulars. I have perused the circulars, but none of them on which she is placing reliance come to the rescue of either the respondent Counsel or the respondents themselves. The Counsel for the respondent-Corporation drew my attention to another Circular dated 19-03-1993 stating that the ban imposed on appointment of certain posts from time to time will be applicable to the recruitment of the employee's children also. But, it does not say that the ban is applicable for appointment on compassionate grounds. She also brought my attention to another circular dated 13-05-1993 stating that there is ban on direct recruitment. As per that-circular, the ban was extended up to 31-03-1993, but the Counsel asserts that the ban is still continuing by relying on another circular dated 19-08-1998. Even as per that circular, the ban is extended up to 31-03-1999, thereafter it is not known whether the ban is extended or not. From this it is seen that there is ban on recruitment on all posts in the respondent-Corporation. Further if the ban on recruitment is there it is not known how the Proceedings No. PD2/255(17) 98 PO-II, dated 28-11-1998 emanated, wherein as many as 16 persons were appointed as typists, clerks, cleaners, kalasis so on and so forth. There is yet another Office Order dated 17-08-1998, wherein one Smt. Emeliyamma, w/o. Sri Ch. Samuel Raju was appointed on compassionate grounds as cleaner. If ban on recruitment is there and if there are no vacancies, how these appointments were made by creating supernumerary posts, is not known.

7. Lastly, the Counsel for the respondent-Corporation brought to my notice the orders of the Hon"ble Supreme Court in APSRTC and Ors. v. Kaiser Begum in CA No. 8948/97, dated 19-12-1997, wherein their Lordships of the Supreme Court observed that any compassionate appointment has to be considered only as per the scheme and absolutely there may not be any dispute with regard to the observation made by their Lordships of the Supreme Court. But, the Hon"ble Supreme Court in another C.A. No. 6255/98, dated 04-12-1998 set aside the order of this Court wherein a direction was given to the APSRTC to create supernumerary posts in the category of sweeper and directed the respondent-Corporation to consider the case of the petitioner in the vacancy that is going to arise in future. But, in the judgment, cited by the Respondents" Counsel neither the judgment of the Supreme Court in Director or School Education v.

Pushpendra Kumar reported in AIR 1998 SCW 2122 was referred nor this order was passed after going through various circulars issued by the Corporation and at least this Court for the last 5 years was hearing that dependants of the deceased employees cannot be appointed for any posts except drivers, conductors, cleaners or sweepers, which runs counter to the circular dated 13-07-1998. I am sure had the Supreme Court gone through the circulars issued by the respondent-Corporation from time to time, the result of the case would have been different. Hence, I am inclined to follow the judgment stated (1) *supra*, which was also a judgment of the Supreme Court and a later one.

8. As observed *supra*, the Governmental authorities are continuing the ban orders for decades, while a scheme promulgated by the Corporation for compassionate appointments of the dependents of the employees died in harness is very much in existence on the statute book. As long as that scheme is on the statute book, the respondent authorities are expected to give some respect to the scheme formulated by them, intended to help the family in distress by giving employment to earn the bread to the family.

9. For all these reasons except deleting the sentence with regard to the observation made by me that the Supreme Court did not grant any stay of the order, I do not see any reason to review my order dated 30-09-1999.

10. Lastly, the Counsel for the respondent-Corporation submits that from the operative portion of the judgment, the direction given to appoint as Sweeper or Attender should be deleted. As the petitioner is fully qualified to hold the post of Stenographer a direction is given to the respondent-Corporation to consider the claim of the petitioner either for Stenographer, Clerk or Typist within three weeks from the date of receipt of a copy of the order.