

(1994) 07 AP CK 0027

In the Andhra Pradesh High Court

Case No : Writ Petition No. 19990 of 1993

Dhanalakshmi

APPELLANT

Vs

The Divisional Manager, APSRTC, Visakhapatnam and Another

RESPONDENT

Date of Decision : 08-07-1994

Acts Referred:

Citation : (1994) 2 ALT 490

Hon'ble Judges : Motilal B. Naik, J

Bench : Single Bench

Judgement

1. Petitioner is the widow of the deceased-employee of the respondent-Corporation who had put in around seven years of service in the Corporation till he met with an incident in and around December, 1991. It is stated that he was working at the Gajuwaka City Depot of Visakhapatnam. On the fateful day i.e. on 1-12-1991 he left his house for the purpose of attending the duty at the Gajuwaka Bus Depot. However, he did not return on the same day. The petitioner came to know that her husband was brutally murdered at Narava village by one of the employees of the respondent-Corporation and his close relatives. He left behind his wife, the petitioner, two minor children and old parents. It is stated that the deceased person, the husband of the petitioner was the only bread earner of the entire family and his entire family members are dependent upon his income.

2. Faced with the sudden development the petitioner seems to have made several representations to the respondent-Corporation seeking appointment in a suitable vacancy on compassionate grounds. The petitioner claims that she has completed 8th class in 1991 in Z. P. P. High School, Bethupalli Gangaram. The minor children of the petitioner were studying in 7th and 5th classes respectively. This apart the old parents-in-law of the petitioner are to be maintained.

3. Despite the representations made to the respondent-Corporation, the respondents have not bothered to accommodate the petitioner in a suitable post. On the contrary, the 1st respondent issued a communication pursuant to the

letter of the petitioner on 8-6-1992 vide his proceedings M1/371/3/92-VSK (U) stating that "it is not possible to provide a job under the existing rules and regulations and therefore, it was suggested that she could opt for monetary benefits in lieu of the job. Some how or the other, the petitioner was reluctant to opt for the monetary benefits as she felt that such benefits may not last for more time for her to maintain her children and also the aged parents-in-laws. Under these circumstances the petitioner made a fresh representation requesting the respondents to accommodate her in a suitable post. Pursuant to such request, the respondent have issued a notice dated 18-12-1993 in proceedings. P2/371(1) /92 requiring her to obtain necessary certificate indicating that she is not working anywhere either in the Central or State Government organisations. Pursuant to the said letter, the petitioner sent a reply on 15-2-1994 along with the certificate issued by the Sarpanch of Gram panchayat of the village to the effect that she is not working anywhere. Despite these requirements being fulfilled, the respondents have not considered her case for providing a suitable job on compassionate grounds.

4. To meet these allegations, a counter has been filed by the respondents contending that the petitioner could not be provided with a job as she had not possessed the requisite qualification for considering her case either for clerk or for typist. It is also contended that the husband of the petitioner was initially appointed as a casual driver and later on his services were regularised only in the year 1989. Further disclosure of the counter goes to show that the petitioner was paid monetary consideration as she was entitled to receive as per the regulations of the respondent-Corporation. The further ground urged in the counter is that none of the male children of the petitioner are majors and do not possess requisite qualification, as such they could not be provided an alternative job. In so far as the petitioner's case is concerned, she does not possess the requisite qualification and therefore it was suggested to her to have the monetary benefits in lieu of the job.

5. The case of the petitioner from the beginning seems to be that her husband died while serving the respondent-Corporation. At the time of death of her late-husband, she had two minor children and aged parents-in-law, who happened to be maintained by her husband. It is not disputed that she does possess the qualification upto 8th class. The respondents in their eagerness to deny the petitioner a suitable job in the Corporation have addressed letters in the month of December, 1993 and reminder in February, 1994 asking her to produce the necessary certificate to the effect that she is not serving either in the State or Central Government Organisations. Unfortunately the said letter fails to disclose the authority from whom such a certificate has to be obtained. However, the petitioner in her own anxiety to get the relief has obtained a certificate from the Sarpanch of the Gram panchayat during the pendency of the writ petition in this Court and placed the said certificate before the authorities for considering her case.

6. The respondent-Corporation have issued several circulars for accommodating the spouse or the children of the deceased employees of the Corporation under scheme". There are circulars reserving 10% of the jobs for such of those drivers who are found medically unfit; there are circulars for accommodating the spouse or children of those employees who have retired on medical grounds without completing their full tenure; there are also circulars for appointing the spouse or the children of the employee who dies while serving in the Corporation that is to say appointment on compassionate grounds without completing their full tenure; there are also circulars for appointing the spouse or the children of the employee who dies while serving in the Corporation that is to say appointment on compassionate grounds. In these circulars which have been placed before me, the respondents have indicated in few circulars while considering the case of a dependent-employee, who seeks employment in harness, has to be necessarily considered on priority basis even against the quota meant for direct recruitment. The Corporation Orders so contemplated, disclose that the posts of clerks, typists and attenders are reserved for accommodating the spouse and children of the deceased-employees.

7. Admittedly the petitioner is in possession of a 8th class pass certificate. The qualification contemplated for attender must be upto 7th pass whereas the petitioner has produced 8th class pass certificate. What remains to be seen is whether the petitioner is entitled to atleast a job of attender in the Corporation.

8. In *Sushma Gosain v. Union of India*, 1989 II CLR 607, the Supreme Court considered the nature of appointment on compassionate ground and observed as under :

"We consider that it must be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to the death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant".

The law laid down by the Supreme Court in the case referred to above makes it abundantly clear that the contingencies caused on account of the death of an employee while in service, the family members who were dependant upon the said deceased's income, have to be provided a suitable job in order to redeem them from distress. The intention of the Supreme Court is that the family has to be given immediate relief.

9. Admittedly in this case the husband of the petitioner died in 1991. We are in 1994. The purpose for which the appointment on compassionate grounds provided is to redeem the difficulties of the dependants of the deceased person forthwith. That being the intention of appointment on compassionate grounds, here is no justification for the respondents to deny the petitioner the job to which

she is entitled to in terms of her qualification. The latter decision of the Supreme Court in *Umesh Kumar Nagpal v. State of Haryana*, 1994 (3) SC 525 and in *Auditor General of India and others Vs. G. Ananta Rajeswara Rao*, , is to the effect that while dealing with the cases of appointment on compassionate grounds the only criteria for such appointment, the question to be considered is whether the dependent of the deceased person in financial distress or not. If the dependants who seek appointment on compassionate ground satisfy that their family was dependant upon the income of the late employee, providing job to the spouse cannot be denied. What follows therefore is an appointment on compassionate ground has to be necessarily acceded to, to meet the immediate requirement if the family members.

10. In the case on hand it is not the case of the respondents that the petitioner, her two minor children and her parents-in-law are not dependant upon the income of the deceased-husband of the petitioner. Therefore, there cannot be any justification in dragging the matter for one reason or the other.

11. It is very strange, the respondents seek a certificate from the petitioner to be furnished indicating that she has not secured a job either in the Central or State Governmental Organisations. It is very difficult for the petitioner to produce such a certificate to the effect that she is neither working in the Central or State Government Organisations, in the absence of specifying any authority. However, the petitioner has made efforts to satisfy on that aspect also by placing a necessary certificate from the Sarpanch of the Gram Panchayat. Despite the requirement being fulfilled, the respondents have shown callous attitude towards the petitioner.

12. The only probable argument this Court sees on behalf of the respondents is the petitioner failed to have a suitable qualification for accommodating her in the suitable job in terms of the circular issued on the question of compassionate appointments.

13. It has to be seen that the very object of compassionate appointment, as held by the supreme Court in the *Sushma Gosain's* case (supra) is to render immediate relief to the family which is in distress, that is to say without the income of the bread earner, the family is exposed to wear and tear thereby inconvenience is cause to the members dependant. In this case the deceased left two minor children and also old parents including the petitioner-wife. It is not disputed that none of them have sufficient income of their own to maintain their family. In my view, having the object of the scheme in mind, the endeavour should be to exempt the requisite qualification if necessary in a given circumstance where the dependants of the deceased-employee have no income other than that of the deceased.

14. In this case it is not the case of the respondents that the petitioner has the income of her own nor her in-laws have the income of their own so that their family could meet their expenditure through the said income. In order to achieve

the object of the scheme, it is necessary that in a given circumstance, the educational qualification shall also be exempted. In this case the petitioner is not even seeking exemption of the educational qualification. She has sought a job of attender. It is not placed before me that she has passed 8th class. The qualification needed in the State Government for an appointment to the post of attender is a 7th class pass. As far as the appointment of a conductor in the respondent-Corporation, the qualification fixed is S. S. C. The petitioner is not seeking a job of conductor. She will be satisfied if she is given a job of an attender.

15. Having viewed the entire crux of the matter from various angles, I am inclined to hold that the petitioner is entitled to a mandamus from this Court directing the respondents to appoint the petitioner in the last Grade post on compassionate grounds forthwith preferably, within one month from the date of receipt of a copy of this order.

16. Sri Ashok Reddy, the Counsel appearing on behalf of the petitioner has placed few decisions of the Supreme Court wherein the Supreme Court in a given circumstance imposed costs upto the extent of Rs. 15,000/- when the authorities have failed to discharge their obligations in providing suitable job. In one of the cases decided by me i.e., in W. P. No. 1233 of 1994 dated 29-6-1994 I have imposed costs of Rs. 4,000/- against the very same respondents in similar circumstances and therefore, the penalty already imposed by me in the said writ petition would be an eye-opener to the respondents in dealing with this type of situations and therefore, I am not inclined to impose any costs in this writ petition. The anxiety of this Court is to redeem the hardship faced by the petitioner and other dependants of the deceased-employee.

17. In the circumstances, the writ petition is allowed but without costs.