

(2022) 11 TEL CK 0018
In the Telangana High Court
Case No : Writ Petition No. 27779 Of 2021

G. Niranjan Reddy

APPELLANT

Vs

State Of Telangana And 2 Others

RESPONDENT

Date of Decision : 10-11-2022

Acts Referred:

Telangana (Regulation of Appointments of Public Services and Rationalisation of Staff Pattern and Pay Structure) Act, 1994 — Section 4(2)(b)
Indian Penal Code, 1860 — Section 148, 149, 302, 324, 427, 452
Arms Act, 1959 — Section 25, 27

Citation : (2022) 11 TEL CK 0018

Hon'ble Judges : P.Madhavi Devi, J

Bench : Single Bench

Advocate : B H R Chowdary

Final Decision : Allowed

Judgement

1. This writ petition has been filed by the petitioner seeking a writ of Mandamus declaring the action of the respondents in rejecting the case of petitioner for providing the employment as per the provisions of the clause 2 and 3 of G.O.Ms.469 G.A.D (Sc-A) Department, dated 08.11.1996 read with clause 5 of G.O.Ms.50, G.A. (Sc-A) Department, dated 21.02.2014 read with Sub-Clause(b) of Clause(2) of section 4 of the Telangana (Regulation of Appointments of Public Services and Rationalisation of Staff Pattern and Pay Structure) Act, 1994 (Act 2 of 1994) vide Proceeding No.RC.No.A1/1393/2019-1 dated 13.03.2020, as arbitrary and illegal and consequently to set aside the same and direct the respondents to provide the petitioner an appropriate job in State Government in accordance with above mentioned provisions or to pass any other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

2. Brief facts leading to the filing of this writ petition are that the petitioner's father was killed in extremists activity i.e., Naxalite activity in the night of 13/14-07-1999 on the pretext that he was police informer. The police also

registered a case vide Crime No.78/1999, under Sections 148, 302, 452, 324, 427 r/w 149 IP and Sections 25 and 27 of the Arms Act. It is submitted that since the bread winner of the family was killed all of a sudden, the family got orphaned and got mired in poverty. It is submitted that as per G.O.Ms.No.469, dated 08.11.1996, the petitioner's family should have been given preferential treatment in providing employment to the wife of the deceased as the bread winner of the family was killed by naxalites. It is submitted that the Government has introduced a scheme of compassionate appointment by providing employment to one of the dependent family members of the deceased through a scheme as per G.O.Ms.No.469 G.A. (Ser-A) dated 08.11.1996 which was applicable with effect from 26.02.1996. It is submitted that subsequently, G.O.504 G.A.(Ser-A) Department dated 11.08.2008 and G.O.Ms.No.50 G.A. (Ser-A) dated 21.02.2014 were issued by the State Government modifying the terms of appointment on compassionate grounds

3. It is submitted that the petitioner was a minor i.e., 2 years old at the time of death of his father and immediately on attaining the age of majority, the petitioner has filed an application for compassionate appointment under G.O.Ms.Nos.469 & 50 (cited supra). It is submitted that by misguiding the petitioner and his family members, an application was obtained from them that they were seeking ex-gratia for the death of the bread winner. It is submitted that subsequently on realizing the mistake, the petitioner and his family have not accepted the ex-gratia and the petitioner is only seeking compassionate appointment for himself in the State Government in any suitable post. It is submitted that the petitioner is now a B.Com graduate and is eligible for the Government jobs.

4. It is submitted that respondent No.2 issued proceedings RC.No.A1/1393/2019-1, dated 13.03.2020, rejecting the request of the petitioner citing that petitioner has applied for ex-gratia as per G.O.Ms.50, dated 21.02.2014 in lieu of the employment. In the said order, it was further stated that the petitioner's case along with such other cases was examined by the District Level Scrutiny Committee in the meeting held on 07.04.2019 under the Chairmanship of the then District Collector, Warangal and it had recommended 36 cases including the case of the petitioner for sanction of additional ex-gratia of Rs.5 lakhs to each family and that the case of the petitioner was also forwarded to the Government for financial assistance/ex-gratia as per the G.O.Ms.No.50, G.A.(SC.A) Department dated 21.02.2014 in lieu of employment.

5. Learned counsel for the petitioner submitted that the petitioner became eligible for compassionate appointment only in the year 2012 after attaining the age of the majority and since the petitioner's family was never paid any ex-gratia either immediately after the death of his father or even additional ex-gratia as per G.O.Ms.No.50, dated 21.02.2014, the petitioner is seeking only compassionate appointment as per his eligibility and suitability. It is submitted that in similar circumstances, this Court has granted relief to the petitioners

therein. He places reliance upon the decision of this Court in the case of N.Sri Bindu Vs. Revenue Divisional Officer, Nagarkurnool, Mahabubnagar District and Others W.P.No.24117 of 2010 reported in 2011 (3) ALD 205, wherein the Court has given relief to the petitioner therein and the Government had filed W.A.No.69 of 2012 and the Division Bench had confirmed the order of the Single Judge. It is further submitted that the appeal filed by the Department before the Hon'ble Supreme Court in SLP Vide No.9520 of 2013 was also dismissed on 24.02.2014 and therefore, the order of the learned Single Judge has become final. It is submitted that in other Writ Petitions, such as W.P.No.15728 of 2010, dated 02.11.2011, similar orders have been passed and the Writ Appeals filed before the Hon'ble Supreme Court have faced the same fate. It is submitted that subsequently the Government has complied with the directions of this Court and has given appointment to the petitioners therein.

6. It is submitted that the petitioner was eligible for the appointment under compassionate grounds and he has also given instances of various other similarly placed persons who have opted for ex-gratia, but were given employment thereafter.

He therefore, sought directions from this Court to the respondents to provide him any suitable job in the Government of Telangana on compassionate grounds in terms of G.O.Ms.No.468, dated 08.11.1996.

7. Learned Government Pleader, on the other hand, supported the averments made in the counter affidavit and submitted that the petitioner had opted for additional ex-gratia under G.O.Ms.No.50 dated 21.02.2014, but since the petitioner has not given the details of his bank account, the same was not paid to him or his family members. He has drawn the attention of this Court to the relevant para in the counter affidavit wherein it is stated that the Government has sanctioned and released budget of an amount of Rs.1,80,00,000/- as per the G.O.Ms.No.50, dated 21.02.2014 and the name of the applicant i.e., petitioner herein is also included therein as one of the beneficiary. It is submitted that since the petitioner has not given details of his bank account, the same has not been released so far. It is submitted that if the details are given, the amount will be deposited into the account of the petitioner immediately. He further submitted that G.O.Ms.No.50 has been withdrawn vide G.O.Ms.No.2493 dated 07.09.2015 for evolving fresh policy in future cases.

8. Having regard to the rival contentions and the material on record, this Court finds that prior to the issuance of G.O.Ms.No.469, dated 08.11.1996, the State Government has issued orders in G.O.Ms.No.70 dated 26.02.1996 enhancing the ex-gratia relief to the victims of extremist violence and relief towards damages to properties. Thereafter, vide G.O.Ms.No.429 dated 05.10.1996, the State Government issued certain guidelines and amongst other things, for immediate payment of ex-gratia relief to the next to the kin of the persons killed/injured in the extremist violence and relief towards damages to properties. As a further measure of relief to the victims of extremist violence, the G.O.Ms.No.469 dated

08.11.1996 was issued to provide employment to the son or daughter or spouse of any person killed in extremist violence or in police firing and accordingly, the Andhra Pradesh (Regulation of Appointments to Public Services and Rationalization of staff pattern and pay structures) Act 1994 (2 of 1994) has also been amended suitably. The said orders had come into effect from 26.02.1996. Later, G.O.Ms.No.504 dated 11.08.2008 was issued to provide the benefit of appointments also to the dependents of the deceased who were killed in extremist violence or police firing prior to 26.02.1996 also. It was also provided that the applicant (dependent of the deceased persons) should apply for compassionate appointment within three months and relaxation of upper age limit for two years was also made applicable in terms of G.O.Ms.No.76, dated 04.03.1998 and thereafter, the G.O.Ms.No.50 dated 21.02.2014 was issued to provide additional ex-gratia of Rs.5 lakhs to the dependents of the deceased in lieu of employment if there was no eligible family member for compassionate appointment at the time of death of the victims. This assistance was provided in addition to the ex-gratia already paid to the next of the kin of the deceased. It is noticed that vide G.O.RT.No.2493 dated 07.09.2015, the Government of Telangana has decided to evolve a fresh policy in future cases and therefore, has withdrawn all the earlier above mentioned Government Orders (G.Os). Thereafter, no policy has been framed by the Government of Telangana.

9. However, this Court finds that the petitioner is claiming compassionate appointment under the provisions of G.O.Ms.No.469, dated 08.11.1996 and G.O.Ms.No.504, dated 11.08.2008. He became eligible for compassionate appointment in the year 2012, whereas the G.O.Ms.No.50 for payment of additional ex-gratia has been issued on 21.02.2014. According to the petitioner, no ex-gratia, even prior to or after 2014 has been paid to the petitioner or his family members and that by mis-guidance, an application has been obtained from the petitioner in the year 2015 for payment of ex-gratia. This Court in W.P.No.24117 of 2010 has taken note of similar circumstances in Para Nos.13 to 17 to hold as under:

13. In ordinary cases of providing employment on compassionate grounds, the Rules or the scheme insist that an application must be made within one year from the date of death of the employee. The reason is that the scheme aims at rescuing the family, when it is in penury on account of the death of the employee, and if the family did not feel the necessity of availing the benefit for a period of one year, it is suggestive of the fact that the family can carry on without such benefit. The same cannot be said about the scheme evolved for the benefit of the dependants of the person killed in extremist violence. They do not have any definite source of income and family is snatched away, of the bread winner for no fault of them. At no point of time, the scheme stipulated the age limits for the dependants, so much so, the upper age limits of the spouses of the deceased were directed to be relaxed. As matter of fact an extraordinary benefit is conferred in the form of appointing dependants as junior assistants, etc, relaxing the qualifications and permitting them to acquire the qualifications

within a stipulated time.

14. When there is a specific provision in G.O.Ms.No.469, dated 08.11.1996, conferring power upon the 2nd respondent to relax age limit, it was not necessary for her, to seek permission of the 3rd respondent to relax the age limit. The 3rd respondent has taken a perverse view of the matter and rejected the claim of the petitioner.

15. The very fact that the Government issued G.O.Ms.No.504, dated 11.08.2008, extending the benefit to the victims of the incidents that occurred prior to 1996, discloses that the dependants would either be age barred or under aged at the relevant point of time and still the benefit deserves to be extended. The 3rd respondent has denied to the petitioner, what Government in its wisdom wanted to extend.

16. At any rate, what becomes relevant is the age of the candidate as on the date of appointment. The petitioner acquired right to submit application only in the year 2008 and it is nobody's case that she needs any relaxation of age as on the date of her application.

17. Hence, the Writ Petition is allowed and the impugned order is set aside. The 3rd respondent is directed to pass appropriate orders on the application of the petitioner by treating her as not requiring the relaxation of age limits, within two months from the date of receipt of a copy of this order.

This judgment has been confirmed by the Division Bench of the Andhra Pradesh High Court in W.A.No.69 of 2012 and also by the Hon'ble Supreme Court by the dismissal of the SLP filed by the Department. Therefore, this order of the Andhra Pradesh High Court has become final.

10. The respondents, in the counter affidavit have not stated as to how the case of the petitioner is different from other persons who have been given relief of compassionate appointment though they have also opted for ex-gratia under G.O.Ms.No.50.

11. In view of the same, this Court deems it fit and proper to direct the respondents to consider the application of the petitioner and provide him compassionate appointment in accordance with G.O.Ms.No.469 if he is found otherwise eligible. The respondents shall pass suitable orders providing appointment to the petitioner within a period of three months from the date of receipt of a copy of this order.

12. Accordingly, this writ petition is allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.