
(1998) 04 AP CK 0060

In the Andhra Pradesh High Court

Case No : Writ Petition No. 17889 of 1997

M. Sundar Raju

APPELLANT

Vs

Manging Director, APSRTC and another

RESPONDENT

Date of Decision : 01-04-1998

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (1998) 3 ALD 36 : (1998) 2 ALT 565 : (1999) 1 LLJ 685

Hon'ble Judges : S.R. Nayak, J

Bench : Single Bench

Advocate : Mr. V. Vishwanatham and G. Ravi Mohan, for the Appellant; Sri A.V. Sivaiah, SC for APSRTC, for the Respondent

Judgement

1. The petitioner's father was serving as Leading Hand in A.P. State Road Transport Corporation and he died in harness on 15-10-1995. The petitioner made an application on 15-2-1996 seeking appointment to a suitable post in the Corporation on compassionate grounds. The petitioner's claim was, however, rejected by the respondents by the impugned proceedings dated 2-11-1996 on the ground that one of the sons of the deceased employee, namely, Sri M. Sekhar was already employed in the Corporation and, therefore, the claim of the petitioner for appointment on compassionate grounds could not be considered. This action of the Corporation is assailed in this Writ Petition.

2. Sri Viswanatham, the learned Counsel for the petitioner would contend that the impugned action of the respondents is arbitrary and unreasonable. On the other hand, the learned Standing Counsel for the Corporation would support the action.

3. It cannot be gain-said that the right to be considered for appointment on compassionate grounds is neither a Constitutional right nor a Common Law right. In other words, unless the employer frames a scheme providing for appointment to one of the dependants of the deceased employee on compassionate ground and unless the competent Legislature or Rule making authorities enact law or

frame the rules, as the case may be, providing for appointment on compassionate grounds, no dependant member of the family of deceased employee can seek a Writ of Mandamus to the employer to appoint him or her on compassionate ground. Scheme of providing compassionate appointment in the Corporation was framed by the executive action. The scheme framed in exercise of the executive power of the Corporation specifically provides that in the case of an employee dying in harness, if one of the dependants of the deceased employee is already in employment of the Corporation, compassionate appointment of other dependants is impermissible. Therefore, the only question which falls for consideration in the fact-situation in this case is whether the action of the respondents to turn down the claim of the petitioner for appointment on compassionate ground on the ground that his brother M. Sekhar was already in the employment of the Corporation is arbitrary and unreasonable so as to violate Article 16 postulates. No doubt the management of the Corporation has made a classification among the dependants of the employees dying in harness. They are: one class consisting of the dependants of the deceased employees who die in harness where one of the dependants is already in the employment of the Corporation and the other class consisting of the dependants of the employee dying in harness where none of the dependants of the deceased employee is in employment of the Corporation. What Article 14 bars is class legislation not a reasonable classification. However, a classification in order to withstand the scrutiny of Article 14 should pass two tests, namely, that (i) the classification must be founded on an intelligible differentia which distinguishes persons or things that are put together from others left out of the group and (ii) that the differentia must have a rational relation to the object sought to be achieved by the classification in question. In the instant case, the classification made by the Corporation is based on an intelligible differentia in the sense that the classification is grounded on the basis that whether among the dependants of the deceased employee, is there any earning member or not. This criteria, in my view, cannot be said to be not an intelligible differentia to make the classification. Similarly, the classification made by the Corporation satisfies the second test also. There is an object behind the classification, the object being to see that the extraordinary social welfare measure of providing immediate succour to the dependants of the deceased employees should go to the needy and in deserving cases and not to all. It is quite often emphasised by the Courts that the very object behind the scheme of providing compassionate appointment is to provide a source of livelihood to the dependants of the deceased employee on account of untimely and unexpected death of the deceased employee. The classification made reflects this objective and the classification is intended to achieve that objective. Therefore, the restriction imposed in the scheme framed by the Corporation not to provide appointment on compassionate ground to the dependants of the deceased employee where one of the dependants of the deceased employee is already in employment of the Corporation cannot violate Article 14 requirements. No case is made out for interference.

4. The Writ Petition, therefore, fails and is dismissed. There shall be no order as to costs.