

(1998) 04 AP CK 0049
In the Andhra Pradesh High Court
Case No : W.A. No. 678 of 1998

Managing Director, APSRTC, Mushirabad, Hyderabad. and
Another

APPELLANT

Vs

K. Santha Kumar

RESPONDENT

Date of Decision : 21-04-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 4 ALD 10

Hon'ble Judges : Umesh Chandra Banerjee, C.J.; C.V.N. Sastri, J

Bench : Division Bench

Advocate : Mr. C.V. Ramulu, SC for APSRTC, for the Appellant; Mr. S.A.K. Muynuddin, for the Respondent

Judgement

Umesh Chandra Banerjee, C.J.—This appeal is directed against the order of the learned single Judge directing issuance of a writ of mandamus to appoint the petitioner to any suitable post in Class-IV or Class III services of the Corporation.

2. The contextual facts depict that the writ petitioner applied for compassionate appointment in the year 1992 consequent upon the death of her father, who was an employee of the Corporation and who died in harness on 8-10-1991. But for some reason, the compassionate appointment did not take place and eventually the petitioner moved this Court under Article 226 of the Constitution late in the year 1997. It, therefore, appears from the factual score that a period of seven years has elapsed between the death of the father of the petitioner and the application being moved under Article 226 of the Constitution. Compassionate appointments are special in nature and ought not to be readily in vogue, Compassionate appointments are only meant to meet the immediate need of financial stringency by reason of the death of the bread earner. Admittedly, seven years have elapsed. Therefore, there is no immediate need. The petitioner has been able to manage the affairs some how or the other. As such, the question of there being compassionate appointment does not and cannot arise. In any event,

learned Advocate appearing for the writ petitioner contended that there was a scheme which would permit the petitioner to obtain employment with the Corporation. The factual context shows that the scheme stands cancelled or superseded in the year 1997 prior to the writ petition being filed before this Court under Article 226 of the Constitution. It is for the employer to continue with the scheme and not for the Court to suggest its continuance. The employer thought it fit to discontinue the scheme, as such, no exception can be taken in regard to such discontinuance. Be that as it may, in view of the fact that there is a long lapse of time, question of issuance of a writ of mandamus does not and cannot arise.

3. In any event, the order of the learned single Judge in the matter of issuance of a direction for appointment cannot also be sustained since the Court cannot direct appointments in the normal circumstances. At best, the matter can be sent back to the respondent-authority for consideration of the same in accordance with law. The order, therefore, in any event, cannot be sustained. In our view, however, to subserve the ends of justice, if any monetary benefit is available, the same be made available to the petitioner within a period of six weeks from the date hereof.

4. The writ appeal is, therefore, allowed and the order of the learned single Judge stands set aside. No order as to costs.

5. The order of this Court, however, ought not to be understood to mean that there is an embargo in the matter of consideration of the petitioner's engagement as casual labourer of the Corporation and the Corporation is directed to consider the case of the petitioner as casual labourer as and when such requirement is felt in the Corporation if she is otherwise eligible.