

(1999) 09 AP CK 0091

In the Andhra Pradesh High Court

Case No : Writ Petition No. 11724 of 1999

P. Bala Tripura Sundari

APPELLANT

Vs

APSRTC and Another

RESPONDENT

Date of Decision : 30-09-1999

Acts Referred:

Citation : (2000) 2 ALT 5

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

Bench : Single Bench

Advocate : S.M. Subhan, for the Appellant; Nanda Ramachandra Rao, SC for APSRTC, for the Respondent

Judgement

B.S.A. Swamy, J.—Questioning the action of the respondents-Corporation in not considering the case of the petitioner for appointment as Conductor on compassionate ground under "Bread Winner Scheme", the petitioner has filed this writ petition.

2. The facts are not in dispute. The petitioner's father while working as Senior Clerk in respondent-Corporation died in harness on 2-6-1998. Thereafter, the petitioner seemed to have filed an application on 12-10-1998 for her appointment in any suitable post on compassionate grounds. Thereafter, the petitioner seemed to have been called for interview on 23-11-1998 for the post of Conductor and the Selection Committee rejected her case for appointment as Conductor on the ground that she is not having required height as per rules and regulations of APSRTC prescribed for the post of conductor i.e., 153 cms., as her height is 149.5 cms.

3. In fact on an earlier occasion, when similar matter came up for hearing, I observed that the height prescribed for male members cannot be prescribed to the female members as their height as per Indian standard is far less than that of the male members. The judgment seemed to have been upheld by a Division Bench of this Court in W.A.No. 1055 of 1997. But the Corporation seemed to

have filed SLP in the Supreme Court and the same is pending. Further it is stated that no interim orders were granted by the Supreme Court. In those circumstances, the respondent-Corporation is expected to reduce the height in favour of female members. But that was not done. As a result, the petitioner who is seeking employment on compassionate grounds would not get appointment as a Conductor. Coming to her claim for appointment as a Cleaner or Attender, the respondent's Counsel strenuously opposed the claim by saying that there is a ban on recruitment in all posts except for the posts of Drivers and Conductors and as such the case of the petitioner cannot be considered for employment in any other post even though she is a graduate with qualification in typewriting and stenography. When the Court asked the Counsel to produce ban orders, she sought for time and the case underwent several adjournments. But the ban orders were not produced by the Counsel. At the same time, the Counsel for the petitioner produced the proceedings dated 28-11-1998 appointing as many as 16 candidates as Traffic Assistants in Class III and Class IV service by creating supernumerary posts. This proceeding belies the contention of the Counsel for the respondent that there is a ban and no appointments can be made. Further as the petitioner is seeking appointment on compassionate grounds, if there is no vacancy as such, as held by the Hon'ble Supreme Court in Director of School Education v. Pushpendra Kumar AIR 1998 SCW 2122 the appointing authority is expected to create supernumerary post and give appointment to the petitioner who is seeking appointment on compassionate grounds. The relevant portion of the said judgment is extracted hereunder:

"In the result, the appeals are allowed, the impugned judgments of the High Court are set aside and writ petitions of the respondents-applicants are disposed of with the direction that if no Class III post is available in the institution in which the deceased employee was employed or in any other institution in the district, the said respondent, would be appointed against a Class IV post in the institution in which the deceased employee was employed and a supernumerary post in Class IV be created for the purpose."

4. view of the judgment of Supreme Court, a direction is given to the respondent-Corporation to consider the case of the petitioner either as a Clerk or at least as Sweeper or Attender or any suitable post duly taking into consideration the educational qualifications of the petitioner within 4 weeks from the date of receipt of this order.

5. With the above direction the Writ Petition is disposed of.