
(1997) 03 AP CK 0005

In the Andhra Pradesh High Court

Case No : Writ Petition No. 14253 of 1994

P. Renuka and Others

APPELLANT

Vs

Senior Divisional Manager, L.I.C. Divisional Office, Hyderabad
Division and Another

RESPONDENT

Date of Decision : 25-03-1997

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226

Citation : (1998) 1 ALT 552

Hon'ble Judges : C.V.N. Sastri, J

Bench : Single Bench

Advocate : Y. Rama Rao, for the Appellant; J.V. Surya Narayana Rao, SC, for the Respondent

Final Decision : Dismissed

Judgement

C.V.N. Sastri, J.—In this writ petition the petitioners seek to assail the refusal of the respondents to provide compassionate appointment to the third petitioner.

2. The facts are not in controversy. The first petitioner is the widow, and the petitioners 2 and 3 are the sons of late P. Mallaiah who died on 17-7-1990 while working as Record Clerk in City Branch VI of the Life Insurance Corporation of India, Hyderabad. After the death of Mallaiah, the first petitioner made a representation on 19-9-1990 requesting the first respondent to appoint the second petitioner in any suitable post on compassionate grounds. The said request was, however, turned down by the first respondent who, by his letter dated 3-12-1990, informed the first petitioner that the competent authority found it not possible to accede to her request for suitable job to her son Mr. P. Chandrasekhar on compassionate grounds. The first petitioner again made a representation on 15-1-1991 to reconsider her request to provide a suitable job to the second petitioner on compassionate grounds but the said representation also met with the same fate and was turned down by the first respondent by the letter dated 18-2-1992. The first petitioner submitted a further representation on

4-1-1992 (sic. 1993) renewing her request for providing a suitable job to the second respondent (sic. petitioner) on compassionate grounds stating that none of her family members is employed and she is finding it very difficult to run the family without any income. As the said representation evoked no response, the petitioners have filed the present writ petition.

3. In the affidavit of the first petitioner, which is filed in support of the writ petition, it is stated that the second petitioner is residing independently and there is no earning member in the family of the first petitioner and that the third petitioner has completed Intermediate and has also passed Typewriting Higher Grade and as such he is fully qualified to be appointed in the respondents' Corporation. A direction is, therefore, sought to the respondents to appoint the third petitioner in any suitable post on compassionate grounds. In the cause title of the writ petition, the occupation of the second petitioner is shown as "private service".

4. The stand taken by the respondents is that as per the Life Insurance Corporation Recruitment (of Class III & IV Staff) Instructions, 1979, read with Circular dated 20-1-1987, no appointment can be made on compassionate grounds where any member of the family is employed and since the second petitioner is already gainfully employed, a compassionate appointment cannot be granted to the third petitioner as sought for. It is also the stand of the respondents that according to the said instructions, the claim for appointment on compassionate grounds cannot be entertained after the lapse of one year from the death of the employee in harness.

5. In support of the said contentions, Sri J.V. Suryanarayana Rao, the learned senior Counsel for the respondents has placed reliance on the judgments of the Supreme Court in State of Haryana and Ors. v. Rama Devi and Anr., JT (1996) 6 SC 647, Life Insurance Corporation of India Vs. Mrs. Asha Ramachandra Ambekar and another, and a Division Bench judgment of this Court in General Manager, District Central Co-operative Bank Ltd. Vs. S. Vasudeva Reddy, .

6. Sri Y. Rama Rao, the learned Counsel for the petitioners has, on the other hand, contended that the application for compassionate appointment was made within time immediately after the death of Sri P. Mallaiah and that by that time no member of the family of the petitioners was employed and as such the respondents were bound to provide a compassionate appointment to the second petitioner but the said request was arbitrarily and illegally rejected without any justification whatsoever and the fact that subsequently the second petitioner secured some private employment is not a bar for the consideration of the request of the petitioners for providing a compassionate appointment to the third petitioner. In support of his contentions the learned Counsel for the petitioners has relied upon the judgment of the Supreme Court in Smt. Sushma Gosain and Others Vs. Union of India (UOI) and Others, and the judgment of a learned single Judge of this Court in Radhika Thirumalai A. Vs. Hindustan Aeronautics Limited, .

7. In *General Manager, District Central Co-operative Bank Ltd. Vs. S. Vasudeva Reddy*, a Division Bench of this Court, after examining the various decisions of the Supreme Court on the subject of compassionate appointments, has summarised the underlying principles which are as follows:

"(a) Appointment on compassionate ground is an exception to the general rule of equality enshrined in Articles 14 and 16 of Constitution of India. That too, only in favour of the dependents of an employee dying in harness and leaving his family in penury and without any means.

(b) The employment on compassionate ground can be made only to classes III and IV posts notwithstanding the higher qualifications of the dependent or the post held by the deceased employee.

(c) The consideration for employment in post on compassionate ground is not a vested right which can be exercised at any time or offered after whatever lapse of time.

(d) Compassionate employment has necessarily to be made in accordance with rules or executive instructions issued by the Government or public authority concerned.

(e) And above all, such appointment should be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant. Denial of appointment of dependent on compassionate ground on account of any ban imposed for fresh appointments would be arbitrary.

And, as regards the nature of orders to be passed it should not be forgotten that the High Court in exercise of jurisdiction under Article 226 of the Constitution of India cannot issue a Writ of Mandamus to an employer to provide appointments on compassionate ground. It can only direct consideration of the claim of the dependent in accordance with the rules."

It is, therefore, not necessary to examine in detail all the other judgments cited at the bar by the learned Counsel for both parties.

8. In the instant case P. Mallaiah admittedly died on 17-7-1990. Though the application for compassionate appointment of the second petitioner was made within time, the same was rejected by the competent authority after consideration on 3-12-1990 and again on 18-2-1992. The petitioners did not question the said rejection by filing a writ petition immediately. Though the first petitioner made a further representation on 4-1-1993 repeating her request to provide a compassionate appointment to her elder son i.e., the second petitioner herein, the same was not pursued and the second petitioner appears to have secured employment elsewhere. The petitioners have filed the present writ petition on 3-8-1994 coming with the request for the first time to provide compassionate appointment to the third petitioner. I am afraid, granting of such

a request at this distance of time would be plainly contrary not only to the provisions of the scheme framed by the Life Insurance Corporation which have the force of law but also the very object of providing such appointments on compassionate grounds. The scheme prohibits the grant of compassionate appointment when any member of the family is already gainfully employed. Admittedly the second petitioner is gainfully employed by the date of the filing of the writ petition. Further the representation dated 4-1-1993 made by the first petitioner reveals that the deceased P. Mallaiah had also another wife through whom he had a son by name Bhagavath and the said Bhagavath was also an employee of the L.I.C. Even accepting the case of the petitioners that they have no connection whatsoever with the said Bhagavath or his mother, the fact remains that the second petitioner is also now gainfully employed. It is difficult to accept the contention of the petitioners that the second petitioner is residing independently and as such the third petitioner is eligible for the grant of compassionate appointment. That would be plainly contrary to the terms and conditions provided in the scheme.

9. For the foregoing reasons, I do not find any merit in this writ petition and it is accordingly dismissed. But there will be no order as to costs.