

(1997) 11 AP CK 0056
In the Andhra Pradesh High Court
Case No : W.A. No. 1175 of 1997

P. Renuka (Smt.) and Others

APPELLANT

Vs

Senior Divisional Manager, LIC Divisional Office, Hyd. and
Another

RESPONDENT

Date of Decision : 17-11-1997

Acts Referred:

Citation : (1998) 1 ALD 793

Hon'ble Judges : Syed Shah Mohammed Quadri, Acting C.J.; R.M. Bapat, J

Bench : Division Bench

Advocate : M/s. Y. Rama Rao, for the Appellant; Mr. J.V. Surya Narayan Rao, SC for LIC of India, for the Respondent

Judgement

Syed Shah Mohammed Quadri, Acting C.J.

1. An earnest appeal is made by Sri- Y. Rama Rao, the learned Counsel for the appellants, to interfere in the order of the learned single Judge in W.P.No.14253 of 1994 dated 25-3-1997 which is now assailed in the Writ Appeal.

2. The appellants are unsuccessful petitioners. One late P. Mallaiah was an employee of the Life Insurance Corporation of India which is represented by the respondents herein. He died while in the service on July 17, 1990 leaving behind him the first petitioner - his widow, Petitioners 2 and 3 - his sons. The Life Insurance Corporation, like other statutory Corporations, introduced the scheme of considering appointment of widow/son/daughter of the deceased employee who dies in service. Claiming the benefit of that scheme, the widow filed a representation on September 19, 1990, but her request was not acceded to as one of the sons was employed. It seems, she again reiterated her request on January 15, 1990 (sic 1991), but of no avail. The Corporation took the same view which was intimated by letter dated February 18, 1992 then followed a third representation by her on January 9, 1993. Complaining that her request was not accepted, she filed the Writ Petition which gave rise to the Writ Appeal.

3. From the above facts, it appears that the second petitioner, a son of the deceased, is gainfully employed; but the first petitioner requested the authorities to discount the same on the ground that he is away from the family.

4. Having examined the contentions of the learned Counsel for the parties, the learned single Judge took the view that under the scheme, the request for compassionate appointment cannot be considered if any of the members of the family was gainfully employed and thus dismissed the Writ Petition.

5. Sri Y. Rama Rao, the learned Counsel for the appellants, submits that the second petitioner is living independently, he cannot be treated as a member of the family and therefore his being gainfully employed cannot be the ground to reject the request of the Petitioners 1 and 3. Sri J.V. Swamrayana Rao, the learned Standing Counsel for the LIC of India, on the other hand, contends that having regard to the scheme itself, there is no scope for claiming employment; as such, the learned single Judge was right in rejecting the request of the petitioners.

6. To examine the contention of the learned Counsel for the appellants, it would be necessary to note the relevant clause in the scheme, viz.. Clause 4 of Circular No.2D/ 636/ASP/87 dated 20-1-1987 which runs thus :

"Clause 4: Where any member of the family is employed, no appointment may be made on compassionate grounds."

That clause fell for consideration of the Supreme Court in Life Insurance Corporation of India Vs. Mrs. Asha Ramachandra Ambekar and another, . Hon"ble Sri Justice Mohan, speaking for the Supreme Court, after referring to the famous quotation of Shakespeare in Merchant of Venice, observed :

"Of late, this Court is coming across many cases in which appointment on compassionate ground is directed by judicial authorities. Hence, we would like to lay down the law in this regard. The High Courts and the Administrative Tribunals cannot confer benediction impelled by sympathetic consideration. No doubt, Shakespeare said in Merchant of Venice :

"The quality of mercy is not strain'd; It droppeth, as the gentle rain from heaven Upon the place beneath it is twice bless'd, it blessth him that gives, and him that takes."

These word will not apply to all situations. Yielding to instinct will tend to ignore the cold logic of law. It should be remembered "law is the embodiment of all wisdom". Justice according to law is a principle as old as the hills. The Courts are to administer law as they find it, however, inconvenient it may be."

Thus it is clear that justice according to law is the golden principle and that the Courts have to administer law as they find it, however, inconvenient might be. On the facts of that case, it has been held that Clause 4 of the Circular interdicts such appointment on compassionate grounds and that the Life Insurance

Corporation being a statutory Corporation was bound by the Act under which it is created as well as the statutory regulations and instructions, which cannot be put aside to make compassionate appointment.

7. For the aforementioned reasons, we find it difficult to accept the contentions of the learned Counsel for the appellants. The Writ Appeal deserves to be dismissed and it is accordingly dismissed.