
(2021) 10 TEL CK 0010
In the Telangana High Court
Case No : Writ Petition No. 44763 Of 2018

P.Srihari

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 01-10-2021

Acts Referred:

Constitution Of India, 1950 — Article 14, 21
Indian Penal Code, 1860 — Section 147, 148, 149, 302, 307
Arms Act, 1959 — Section 25I(a)
Terrorist and Disruptive Activities (Prevention) Act, 1987 — Section 3, 4

Citation : (2021) 10 TEL CK 0010

Hon'ble Judges : B. Vijaysen Reddy, J

Bench : Single Bench

Final Decision : Allowed

Judgement

1. This writ petition is filed challenging the impugned Memo No.B3/1074/2008 dated 01.10.2008 issued by the respondent No.2, as illegal, arbitrary and ultravires to the provisions of the A.P. Regulation of Appointments to Public Services and Rationalization of Staff Patterns and Pay Structure Act, 1994 and violative of Articles 14 and 21 of the Constitution of India and set aside the same. A consequential direction is sought to the respondents to forthwith provide suitable employment to the petitioner on compassionate basis without reference to Clause 4 of G.O.Ms.No.504 dated 11.08.2008.

2. The father of the petitioner, late Manik Rao, was killed in extremist violence in the year 1993. In that connection an FIR.No.10 of 1993 was registered for the offence under Sections 147, 148, 302, 307 read with Section 149 IPC; Section 25 I (a) of the Indian Arms Act and Sections 3 and 4 of the TADA Act on the file of the Bazarhathnoor Police Station, Adilabad District. An application was submitted by the mother of the petitioner way back in the year 1994 seeking compassionate appointment but it was informed that there is no scheme for providing employment to the dependants of the victim of the extremist violence. The then Government of Andhra Pradesh introduced scheme of compassionate

appointment to provide employment to the dependant family members of the deceased vide G.O.Ms.No.469 dated 08.11.1996. As per G.O.Ms.No.504 dated 11.08.2008, there is a scheme for providing employment if the death occurred prior to 26.02.1996. Petitioner made an application on 08.09.2008 in pursuance of G.O.Ms.No.504 dated 11.08.2008.

3. The aforesaid application was rejected vide Memo No.D3/1074/2008 dated 01.10.2008 by the then District Collector but according to the petitioner the same was not communicated to him at any point of time. The petitioner stated that he was informed that, in similar circumstances, WP.No.24117 of 2010 was allowed on 26.11.2020; WA.No.69 of 2012 preferred by the Government was dismissed on 24.01.2012 and after disposal of SLP.No.9521 of 2014, which is pending, the case of the petitioner would be considered. In the first week of November 2018, the petitioner came to know through one Vaman Munde, family member of the one of the victims, that the Supreme Court dismissed the SLP and pursuant to the same, several persons were provided employment. On 10.11.2018, the petitioner requested the respondent No.2 to provide employment but he was informed that his application was rejected long back and he was not eligible for employment. After several representations, the respondent No.2 provided copy of the memo dated 01.10.2008, which was not communicated earlier to the petitioner. Petitioner stated that several similarly placed dependants of the victims of the extremist violence were provided employment pursuant to the orders passed by this

Court in WP.No.24022 of 2017 and batch on 11.12.2017. The petitioner further stated that following the decisions of this Court in WP.No.24117 of 2010 dated 06.11.2010, WA.No.69 of 2012 dated 23.02.2012 and WP.No.24022 of 2015 and batch dated 11.12.2017, this Court allowed WP.No.25827 of 2012 and batch vide order dated 16.04.2018.

4. The petitioner submitted that the Government of Telangana had issued G.O.Rt.No.2493 dated 07.09.2015 withdrawing all the earlier G.Os. The said G.O. had prospective effect and the same is applicable to future cases. He further stated that this Court in WP.No.25827 of 2012 and batch dated 16.04.2018 held that the earlier G.Os are applicable to the cases of the petitioners since the Government of Telangana has withdraw the earlier G.Os only in the year 2015 by G.O.Rt.No.2493 dated 07.09.2015.

5. Heard Mr. T. Sujan Kumar, learned counsel for the petitioner and the learned Government Pleader for General Administration for the respondents.

6. Learned counsel for the petitioner relied upon the order of the learned Single Judge dated 26.11.2010 passed in WP.No.24117 of 2010, which was confirmed by the judgment of a Division Bench of this Court in WA.No.69 of 2012 dated 23.02.2012.

7. In WP.No.24117 of 2010 dated 26.11.2010, it was held as under:

"The very fact that the Government issued G.O.Ms.No.504, dated 11.08.2008, extending the benefit to the victims of the incidents that occurred prior to 1996, discloses that the dependants would either be age barred or under aged at the relevant point of time and still the benefit deserves to be extended. The 3rd respondent has denied to the petitioner, what Government in its wisdom wanted to extend.

At any rate, what becomes relevant is the age of the candidate as on the date of appointment. The petitioner acquired right to submit application only in the year 2008 and it is nobody's case that she needs any relaxation of age as on the date of her application.

Hence, the Writ Petition is allowed and the impugned order is set aside. The 3rd respondent is directed to pass appropriate orders on the application of the petitioner by treating her as not requiring the relaxation of age limits, within two months from the date of receipt of a copy of this order."

This Court in WA.No.69 of 2012 dated 23.02.2012 held as under:

"13. We are unable to appreciate this submission. For the first time, the respondent became entitled to apply for compassionate appointment by virtue of G.O.Ms.No.504, dated 11.08.2008. To reject her application on the ground that she should have applied in 1995 when she was not entitled and was a minor is totally untenable. The benefit of the G.O. issued on 8-11-1996 was not available either to her or to her mother in 1995 or even thereafter till 11.8.2008. As such, the two year restriction imposed by the G.O. dated 4.3.1998 could not stand in her way. If the restriction is allowed to stand in her way, the benefit of the G.O. dated 11.8.2008 would be rendered nugatory. Surely, this is not the intention of the State Government."

In WP.No.24022 of 2015 and batch, this Court vide order dated 11.12.2017, held as under:

"The issue relating to similar cases was considered by this Court in W.P.No.21492 of 2012 and batch dated 16.11.2017. The orders of rejection were set aside and the matter was remanded to the second respondent for consideration of the cases.

It is submitted by the learned counsel for the petitioners that the issue raised in the above Writ Petitions is also covered by the orders in W.P.No.21492 of 2012 and batch dated 16.11.2017 and the same is not disputed by the learned counsel appearing for the respondents.

In view of the same, these Writ Petitions are also allowed by setting aside the impugned orders and the matters are remanded to the second respondent for consideration of the cases of the petitioners for appointment within a period of six months, from the date of receipt of a copy of this order, in accordance with the Government Orders issued in G.O.Ms.No.469, General Administration (SC.A) Department, dated 08.11.1996 and G.O.Ms.No.504, General Administration

(SC.A) Department, dated 11.08.2008. There shall be no order as to costs."

8. In the instant case, the petitioner was 5 years old when his father was killed in (1993) extremist violence. He attained 18 years in the year 2006 and at the age of 20 he applied for compassionate appointment on 08.09.2008. Thus, the case of the petitioner is squarely covered by the decisions referred supra.

9. Learned Government Pleader contended that the elder brothers of the petitioner were eligible for seeking compassionate appointment by the date of death of their father and the petitioner is not entitled to claim appointment. Further, there is an inordinate delay of ten years in approaching this Court.

10. It needs to be noted that there is no bar for the petitioner to apply under G.O.Ms.No.504 dated 11.08.2008 merely because his elder brothers, who were eligible, did not apply. Every child is a sufferer in case of death of his parent in an extremist violence. There are no justifiable grounds to exclude the petitioner merely because his elder brothers did not make any claim. Insofar as delay is concerned, there is no material placed before this Court to show that the impugned rejection was communicated to the petitioner; hence, such contention holds no force.

Following the decisions supra and for the reasons aforesaid, the writ petition is allowed. Pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.