

(2001) 03 AP CK 0004

In the Andhra Pradesh High Court

Case No : Writ Petition MP No. 18038 of 2000 and WP No. 14195 of 2000

Shaik Mahaboob Basha

APPELLANT

Vs

Divisional Railways Manager, SC Railways, Vijayawada
Division, Vijayawada and others

RESPONDENT

Date of Decision : 16-03-2001

Acts Referred:

Citation : (2001) 3 ALD 163 : (2001) 3 ALT 198

Hon'ble Judges : S.B. Sinha, C.J.; S.R. Nayak, J

Bench : Division Bench

Advocate : Mr. P. Samuel John, for the Appellant; Mr. R.S. Murthy, for the Respondent

Judgement

S.B. Sinha, CJ.

1. At the request of the learned Counsel for the parties, the writ petition itself is taken up for hearing.

2. Questioning the order dated 24-3-1994 passed by the learned Central Administrative Tribunal, Hyderabad in OA No.1500 of 1993, the petitioner herein has preferred this writ petition. In the said OA., the petitioner herein prayed for an appointment in the Office of the respondents - Railways on compassionate grounds.

3. The learned Counsel appearing on behalf of the petitioner submits that while in service, the father of the petitioner, Shaik Abdul Bashir, a Pointsman in SC Railways, Tarlapadu in Prakasham District, died on 11-6-1970 and at that time the petitioner was one year old. The learned Counsel would urge that as the petitioner has attained majority, he gave representations to the competent authority on 2-9-1988, 12-4-1990, 29-7-1990 and 22-7-1991. Since the respondents have not taken any action on his representations, the petitioner filed OA No.1500 of 1993 before the Central Administrative Tribunal, Hyderabad, seeking a direction to the respondents to appoint him on compassionate

grounds. The learned Tribunal, while disposing to the OA filed by the petitioner herein, observed thus:

"6. Hence, we direct the respondents to pass final orders on the representations of the applicant dated 2-9-1988, 29-7-1990 and 22-7-1991 in accordance with the rules and regulations, instructions and orders. If the applicant continues to be aggrieved by the final orders passed by the respondents it will be open to the applicant to approach this Tribunal afresh in accordance with law. No orders as to costs."

4. Complying with the directions of the learned Tribunal, the respondents have considered the representations of the petitioner, and, while rejecting the said representations, observed thus:

"1. Your father expired on 1-6-1970 and at the time your mother aged 31 and first son aged 20 years, though eligible did not apply for appointment on compassionate grounds.

2. After a lapse of 18 years i.e., on 22-8-1988 the application for appointment on compassionate grounds was sought in your favour. This is not in accordance with Rules in terms of Rly. Board's Lr.No.E(NG) III/78/PC1 dated 30-4-1979 and E(NG)II-84/RC-1 dated 18-4-1985."

5. The learned Counsel appearing on behalf of the petitioner inter alia submitted that now the Railway Board has come up with a policy decision vide RBE No.114/95 in proceedings No.E (NG) II/84/RC-1/26, dated 6-10-1995, by extending the time limit for appointment of compassionate grounds to 20 years, the relevant portion of which reads thus:

"2. During the course of the Meeting of the Consultative Committee of Members of Parliament for the Minister of Railways held on 25-7-1995, it was suggested that the powers delegated to the General Managers may be enhanced for expediting the appointment on compassionate grounds, on the Railways. The matter has, therefore again been considered by the Board, who have decided that the powers delegated to the General Managers may be enhanced further and that the time limit of 15 years stipulated in para 4 (a) of the Board's letter dated 22-12-994, *ibid*, may be modified to 20 years."

The learned Counsel, therefore, contends that having regard to a policy decision taken by the respondents, the case of the petitioner for appointment on compassionate grounds would have been considered till 1990 and the learned Tribunal must be held to have erred in dismissing the OA.

6. We regret that it is not possible to accede to the contention of the learned Counsel. Apart from the fact that the said policy decision taken by the respondents is prospective in nature, it is now a well-settled principle of law that an appointment on compassionate grounds should not be directed after a long lapse of time.

7. In any event, the reason to be appointed on compassionate grounds is that after the death of an employee, the dependents of the deceased should not suffer. There is no merit in this writ" petition and the same is accordingly dismissed. No order as to costs.

8. Since the main writ petition itself was dismissed, it is not necessary to pass any orders in the interlocutory application and the same is accordingly dismissed.