

(2012) 02 KAR CK 0056

In the Karnataka High Court

Case No : Writ Petition No. 34535 of 2011 (S-KAT)

Shri. G.N. Ramesh

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 07-02-2012

Acts Referred:

Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996 —
Rule 3, 5, 9 (3)

Citation : (2012) ILR (Kar) 2160

Hon'ble Judges : K. Govindarajulu, J;K. Bhakthavatsala, J

Bench : Division Bench

Advocate : N.D. Satishchandra for Jurispoint, for the Appellant; Revathy Adinath Narde, HCGP for R1-R4, for the Respondent

Judgement

1. The petitioner is before this Court praying for quashing the order dated 16.12.2010 made in application No. 4449/2004 and endorsement dated 06.02.2004 at Annexure - "M" and directed the respondent to provide appointment on compassionate grounds for any suitable post. Learned counsel for the petitioner submits that the petitioner's father B. Nanjundappa who was working as an Assistant Teacher in Government High School died on 21.05.1992 and the petitioner's mother made an application seeking appointment to the petitioner on compassionate ground but the request was rejected. The petitioner challenged the endorsement before the Tribunal unsuccessfully.

2. Learned Government Pleader submits that by impugned common order dated 16.12.2010 the Tribunal has rejected 13 applications and the petitioner is one among them. She further submits that at the time of death of petitioner's father that is on 21.05.1992 the petitioner was 11 years old and thus he did not attain the age of majority within one year from the date of death of the petitioner's father and hence he is not entitled to seek appointment on compassionate grounds.

3. It is useful to excerpt Rules 5 and 9 of the Karnataka Civil Services

(Appointment on Compassionate Grounds) Rule, 1996, for immediate reference.

RULE 5. APPLICATION FOR APPOINTMENT:

Every dependent of a deceased Government servant, seeking appointment under these rules shall make an application within one year from the date of death of the Government servant, in such form, as may be notified by the Government, from time to time, to the Head of the Department under whom the deceased Government servant was working.

(Provided that in the case of a minor he must have attained the age of eighteen years within one year from the date of death of the Government servant and he must make an application within one year thereafter.)

(Provided further that nothing in the first proviso shall apply to an application made by the dependent of a deceased Government Servant, after attaining majority and which was pending for consideration on the date of commencement of the Karnataka Civil Services (Appointment on Compassionate Grounds) (Amendment) Rules, 1998.)

RULE 9. TRANSITIONAL PROVISION:

(1) All applications for appointment on compassionate ground made prior to the twentieth October 1994 and the application made on or after that date but before the date of commencement of these rules and which are pending on the date of commencement of these rules shall be (deemed to have been made within the period specified in rule 5 and shall be considered for appointment subject to other provisions of these rules.)

[(1A) where any application made under sub-rule (1) is rejected on the ground that it is not made within the period specified in rule 5, it shall be reconsidered for appointment subject to other provisions of these rules.]

[(2) where an application could not be made for any reason between the twentieth day of October 1994 and the date of the commencement of the Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1998, by a dependent of the deceased Government Servant who died after the twentieth day of October, 1989, the dependent of such deceased Government Servant may make an application within a period of one year from the date of such commencement and such application shall be deemed to have been made within the period specified in rule 5 and shall be considered for appointment subject to other provisions of these rules:

Provided that this sub-rule shall not be applicable in the case of a widower.]

(Provided further that the widowed daughters of the deceased Government servant may make an application within one year from the date of commencement of the Karnataka Civil Services (Appointment on Compassionate Grounds) (Second Amendment) Rules, 2000 and such application shall be deemed to have been made within the period specified in rule 5 and shall be

considered for appointment subject to the other provisions of these rules.]

[(3)] All applications for appointment on compassionate grounds made between the thirteenth day of September 1996 and the date of commencement of the Karnataka Civil Services (Appointment on Compassionate Grounds) (Third Amendment) Rules, 2002 by the dependents of the Government servants who died on or after twentieth October 1989 (other than the applications made by such dependents after the first day of April, 1999 and till the date of such commencement in contravention of the first proviso to rule 5) which are-

(i) rejected on the ground that they were not made within the period specified in rule 5, or

(ii) pending on such date of commencement shall be deemed to have been made within the period specified under rule 5 and shall be reconsidered or as the case may be considered for appointment subject to other provisions of these rules.

4. First proviso to Rule 5 was substituted by notification dated 24.11.2000. According to that in case of a minor, he must have attained the age of majority within one year from the date of death of the Government servant and he must make an application within one year thereafter.

5. The contention of the petitioner is that his father died after 20.10.1989 and as per sub Rule 3 of Rule 9 an application seeking appointment on compassionate grounds was made between 13.09.1996 to 28.05.2002 and he is entitled for appointment on compassionate grounds. The petitioner was 11 years old at the time of death of his father. In other words the petitioner attained the age of majority after lapse of 7 years from the date of death of the Government servant. The petitioner can take benefit of sub Rule 3 of Rule 9 if he had attained age of majority within one year from the date of death of his father as required under 1st proviso to Rule 5 and sub Rule 3 of Rule 9. The Tribunal has rightly rejected the application. In the result the petition fails and the same is hereby rejected.

Smt. Revathy, learned High Court Government Pleader is granted three weeks time to file memo of appearance for the Respondents.