

(2016) 06 KAR CK 0112
In the Karnataka High Court
Case No : W. P. No. 35308 of 2014 (S-RES)

Smt. S. Gurushanthamma

APPELLANT

Vs

Commissioner, Collegiate Education, Bangalore

RESPONDENT

Date of Decision : 14-06-2016

Acts Referred:

Citation : (2016) 3 AirKarR 493 : (2016) LIC 3937

Hon'ble Judges : B.S. Patil, J.

Bench : Single Bench

Advocate : Sri M. Raghavendra Achar, Advocate, for the Appellant; Sri R.B. Sathyanarayana Singh, AGA, for the Respondent

Final Decision : Partly Allowed

Judgement

B.S. Patil, J.—In this writ petition, petitioner is calling in question the endorsement dated 22.01.2014 Annexure-C issued by the Office of the Regional Joint Director, Shimoga - 2nd respondent herein thereby informing the petitioner that her claim for appointment on compassionate ground could not be considered in view of the Circular/letter dated 01.02.2002 issued by the State Government stating that there was no scope for such appointment in case where an employee of a private educational institution died in harness because there was a direction by the Government to reject such application at the threshold.

2. Facts involved in the case disclose that husband of petitioner by name Sri. Thippeswamy was working as an Associate Professor in History in the 3rd respondent - Women's College, Davanagere. The college was admitted to aid and the post held by deceased husband of petitioner was also granted aid. Husband of petitioner died on 31.12.2012. Petitioner filed an application seeking appointment on compassionate ground enclosing her SSLC and degree certificates. In response to the same, application was forwarded to 2nd respondent. The 2nd respondent has issued the impugned endorsement to the effect that vacancy caused on account of death would be treated as un-aided.

3. Learned counsel for petitioner at the outset submits that the Government order/circular based on which the impugned endorsement has been issued has been set aside in the case of Bheemashankar v. State of Karnataka and others, IN W.P.No.81882 of 2009, disposed of on 08.11.2012. Copy of the said order has been made available for perusal of this Court by the learned counsel for petitioner. In paragraph Nos. 4 and 5 of the said decision, this Court has examined the effect of the Government order in the light of the provisions contained in Rule 8(2) of the Karnataka Educational Institutions (Collegiate Education) Rules, 2003. It is useful to extract paragraph Nos. 4 and 5 of the said judgment which read as under:

"Learned Government Pleader taking me through the statement of objections submits that as per Rule 8(2) of the Karnataka Educational Institutions (Collegiate Education) Rules, 2003, any vacancy that would arise in the nonteaching posts after 01.03.2001 on account of retirement, resignation, removal, dismissal and death, etc., are to remain permanently unfilled, shall be filled by the management and salary and other allowances shall be paid from its own resources. He, therefore, submits that this vacancy which has arisen on account of the death after 01.03.2001 shall only be filled up by the management and the salary and other allowances shall be paid from its own resources, even if it be by way of compassionate appointment. This contention is wholly untenable.

5. Rule 8(2) of the Karnataka Educational Institutions (Collegiate Education) Rules, 2003 refers to cases that do not fall within the ambit of the Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996 i.e., to say in case the vacancy arises on account of death and the same has to be filled up by the management, it has to pay salary and other allowances. But, in the instant case, as long as the relevant Rules viz., Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996 framed by the State Government are made applicable to the aided institutions receiving grant-in-aid, it will not be open to the respondent authorities to contend that for filling up such vacancy as per the Rules, the Government is not responsible for meeting the salary and allowances. Such a contention cannot be based on Rule 8(2) as it would defeat the Government order dated 28.11.1998 which is issued with a laudable objective extending the benefit on compassionate appointment to the family in distress and which is pushed into penury on account of the sudden crisis. It is not the case of the State Government before this Court that the Rules pertaining to appointment on compassionate grounds has since been withdrawn from its application to the institutions receiving grant-in-aid. Therefore, this contention which is urged in the statement of objections, but not found in the impugned letter issued also cannot be sustained.

4. It is thus clear that this Court has examined the matter in detail and has held that so long as the relevant Rules namely Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996 framed by the State Government have been made applicable to the aided institutions receiving grant-in-aid, it would not

be open to the respondent - authorities to contend that for filling up such vacancy as per Rules, the Government was not responsible for meeting the salary and allowance. Such a contention, as held in the aforementioned judgment cannot be based on Rule 8(2) as it would defeat the Government order dated 28.11.1998 which has been issued with a laudable object of extending the benefit of compassionate appointment to the family in distress and which has been pushed into penury" on account of the sudden crisis.

5. In the light of the judgment rendered by this Court in Bheemashankar's case mentioned supra which has attained finality, this writ petition, wherein petitioner is similarly placed with that of petitioner in the connected writ petition referred to above, deserves to be disposed of in similar terms.

6. Hence, this writ petition is allowed in part. Impugned endorsement Annexure-C is quashed. Respondent No. 3 is directed to forward the representation of petitioner to respondent No. 1 and the 1st respondent shall consider the representation/application in the light of the observations made above as expeditiously as possible, at any rate within three months from the date of receipt of a copy of this order.