

(2007) 12 KAR CK 0053
In the Karnataka High Court
Case No : Writ Petition No. 17198 of 2007

Srinath Patil

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 13-12-2007

Acts Referred:

Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996 —
Rule 5, 9 (2)

Citation : (2008) 119 FLR 248 : (2008) 3 KCCR 1790

Hon'ble Judges : Cyriac Joseph, C.J.; Ashok B. Hinchigeri, J

Bench : Division Bench

Advocate : Ashok Haranahalli, for the Appellant; B. Sreenivasa Gowda, GA, for the Respondent

Final Decision : Dismissed

Judgement

Cyriac Joseph, C.J.—The petitioner's father was an Agriculture Assistant In the service of the Government of Karnataka and he died on 16th December, 1986. At the time of the death of his father, the petitioner was only three years old. He attained majority in the month of July, 2001. Immediately after attaining majority, the petitioner submitted an application for appointment In Government service on compassionate grounds. However, his application was rejected by the Government as per Annexure-A5 communication dated 30th October, 2001. According to Annexure-A5 communication the application of the petitioner was belated in view of the provisions contained in Rule 9(2) of the Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996. Aggrieved by Annexure-A5, the petitioner filed Application No. 10454 of 2001 In the Karnataka Administrative Tribunal praying to quash Annexure-A5. After considering the averments. In the application and the case law, the Tribunal dismissed the application on 27th July, 2007. The said order, dated 27th July, 2007 passed by the Karnataka Administrative Tribunal in Application No. 10454 of 2001 (Annexure-A) is challenged in this writ petition.

2. Having heard the learned Counsel for the petitioner and having considered the materials placed on record, we do not find any error or illegality in the impugned order of the Karnataka Administrative Tribunal. Admittedly, appointment on compassionate grounds in the service of the Government of Karnataka is governed by the provisions contained in the Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996. According to Rule 5 of the said Rules, every dependent of a deceased government servant seeking appointment under the Rules shall make an application within one month 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. According to the first proviso to Rule 5, in the case of a minor he must have attained the age of 18 years within one year from the date of the death of the government servant and he must make an application within one year thereafter. According to the second proviso to Rule 5, nothing in the first proviso shall apply to an application made by the dependant 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. In view of the above mentioned statutory provisions, the petitioner was not eligible for appointment on compassionate grounds as he did not attain the age of 18 years within one year from the date of death of the government servant and did not make an application within one year thereafter.

3. In the judgement in fill Sri. K.M. Prakash Vs. The State of Karnataka, Department of Personnel and Administrative Reforms (Service Rules) and Zilla Panchayat, , a division Bench of this Court has hold that the first proviso to Rule 5 of the above mentioned Rules cannot be said to be arbitrary, Illegal or violative of Articles 14 and 16 of the Constitution of India. Hence the Karnataka Administrative Tribunal was right and justified in dismissing the Application No. 10454 of 2001. We also agree with the observation of the Tribunal that the object of the provision for making appointment on compassionate grounds Is not to provide employment to one of the dependants of the deceased government employee but to provide Immediate support to the family of a deceased government employee soon after the death.

4. The learned Counsel for the petitioner contended that when the petitioner's father died the petitioner was only three years old and he could not make an application for employment unless he attained the age of 18 years and hence his application could not have been rejected on the ground of lapse of number of years between the death and the making of the application for employment According to him, with the passage of time the family's condition did not improve and it remained the same even when he attained he age of 18 years and therefore it is not Just or proper to deny the employment to him on the ground of lapse of 15 years between the death of the father and the making of the application. We do not find any merit in the contention. The dependent of a government employee does not have a fundamental right or a legal right for

appointment in government service on compassionate grounds. The appointment on compassionate ground can be claimed only under the statutory provisions or executive orders providing for appointment on compassionate grounds and subject to the conditions contained therein. If a person is not eligible for appointment on compassionate grounds under such Rules or orders, he has no enforceable legal right, which can be enforced through a petition under Article 226 of the Constitution of India. Considering the object of the provision for compassionate appointment for the dependent of a government employee dying in harness, as explained in various judgements of the Hon''ble Supreme Court, the denial of compassionate appointment after the lapse of a long period like 15 years cannot be said to be wrong or unjust or arbitrary.

5. In the above circumstances, there is no merit in the writ petition. Writ petition Is dismissed.