

(2016) 11 KAR CK 0032

In the Karnataka High Court

Case No : Writ Petition No. 53908 of 2014 (S-KSRTC)

Sumalakshmi K.

APPELLANT

Vs

Managing Director, K.S.R.T.C.

RESPONDENT

Date of Decision : 08-11-2016

Acts Referred:

Constitution of India, 1950 — Article 16

Citation : (2017) 1 AirKarR 73

Hon'ble Judges : A.N. Venugopala Gowda, J.

Bench : Single Bench

Advocate : Smt. H.R. Renuka, Advocate, for the Respondent Nos. 1 and 2; Sri. L. Shekar, Advocates, for the Respondent No. 3; Sri. S.B. Mukkannappa, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

A.N. Venugopala Gowda, J. - The issue relates to appointment on compassionate grounds between the two sisters - rival claimants.

2. Late N. Krishnaswamy, who was working in KSRTC as a driver, died in harness on 27.07.2002. His wife, Smt. S. Nagarathna submitted representations dated 23.12.2002 and 10.10.2006 to the Management to provide appointment on compassionate grounds to her last daughter - K. Nandini Kumari, the 3rd respondent herein. The petitioner, elder daughter of deceased N. Krishnaswamy submitted a representation and sought providing appointment on compassionate grounds to her. Wife of the deceased employee received all the monetary benefits and died on 03.11.2007, 3rd respondent got married on 26.11.2007. Petitioner submitted another representation dated 13.10.2009 and stated that her husband having died on 29.03.2008, she is in need of the job. The petitioner was notified by issue of an endorsement dated 22.10.2009, that a representation of her sister having been received to provide appointment on compassionate grounds, her case cannot be considered. In W.P.No.36793/2009 filed by the petitioner the said endorsement was quashed by an order dated 04.01.2011 and

KSRTC was directed to consider the aforesaid representations in accordance with law. In pursuance thereof the petitioner was notified on 29.03.2011 to furnish documents to examine her claim.

3. The representation made by the 3rd respondent to provide appointment on compassionate grounds having been rejected on 22.10.2009, was questioned in W.P.No.22594/2012 and by an order dated 21.08.2012, the petition was allowed and KSRTC was directed to consider the case in accordance with law and in the light of the decision in the case of Smt. Manjula v. State of Karnataka and another, ILR 2004 KAR 4881. 3rd respondent submitted another representation dated 13.12.2012 informing that her husband died on 06.11.2012.

4. Claims of the petitioner and the 3rd respondent having been examined by the KSRTC in terms of a Circular dated 07.05.2011 and the 3rd respondent having been found to be eligible was provided with appointment as Junior Assistant-cum-Data Entry Operator. The petitioner having been issued with an endorsement dated 12.07.2013, as at Annexure-K, this petition was filed.

5. Sri S.B. Mukkannappa, learned advocate, contended that the appointment of 3rd respondent is unjust, arbitrary and illegal. He submitted that the petitioner is a widow, has no source of income and has dependent children. He further submitted that the 3rd respondent is financially sound and is not taking care of the petitioner or her children. He contended that by providing appointment to the 3rd respondent, KSRTC has defeated the very object of providing job on account of the death of the bread earner, on whom both the petitioner and her children were dependents.

6. Smt. H.R. Renuka, learned advocate, on the other hand submitted that in view of the order dated 21.08.2012 passed in W.P.No.22594/2012, the claims of the petitioner and the 3rd respondent was examined. She submitted that the wife of the deceased employee having sought providing of appointment on compassionate ground to the 3rd respondent, who is also widow and having a child, the rival claims were examined in terms of Circular dated 07.05.2011 and it was found that the 3rd respondent is entitled for appointment and as such, she was accorded a job. Learned counsel submitted that the decision having been taken in accordance with law, the writ petition is liable to be dismissed.

7. Sri L. Shekar, learned advocate appearing for the 3rd respondent submitted that the KSRTC having considered the rival claims by keeping in view the order dated 21.08.2012 passed in W.P.No.22594/2012, is justified in providing job to the 3rd respondent, who has lost her husband at a very young age and has the obligation of taking care of a female child. He further submitted that the 3rd respondent has no sustenance capacity and being completely dependent upon her parents, who being no more, KSRTC is justified in providing the job. Learned advocate submitted that the petitioner's children are grown up, her sons are employed in private establishments and hence cannot have any grievance as against the order passed in favour of the 3rd respondent.

8. Considered the rival contentions and perused the materials on record.
9. The fact that the petitioner and the 3rd respondent are the daughters of deceased N. Krishnaswamy is not in dispute. Undisputedly, wife of the deceased employee submitted representations to KSRTC and sought providing of job to the 3rd respondent. Wife of the deceased employee has died on 03.11.2007. The claims of the petitioner and the 3rd respondent has been considered by KSRTC by keeping in view the orders passed in W.P.Nos.36793/2009 and 22594/2012.
10. Undisputedly, after the death of workman, the wife of the workman requested the employer to provide appointment to 3rd respondent, who was unmarried at that point of time. Though the marriage of 3rd respondent was solemnized on 26.11.2007, she has become a widow within a period of 5 years and at a young age. She has the duty to take care of a female child.
11. Claims of the petitioner and the 3rd respondent having been considered in the aforesaid background by KSRTC, its decision to provide job to 3rd respondent, cannot be held to be arbitrary or illegal. Appointment on compassionate ground cannot be claimed as a matter of right, but can be claimed in terms of Rules or Regulations framed in that regard. As the KSRTC has accorded appointment to 3rd respondent, after having considered the rival claims, I do not find any justification to quash the endorsement as at Annexure-K.
12. In the result, the petition is dismissed with no order as to costs.