
(1998) 04 AP CK 0001
In the Andhra Pradesh High Court
Case No : W.A. No. 623 of 1998

Vice Chairman and Managing Director, APSRTC, Mushirabad,
Hyd. and Others APPELLANT

Vs

B. Dasarath Kumar RESPONDENT

Date of Decision : 20-04-1998

Acts Referred:

Citation : (1998) 4 ALD 95

Hon'ble Judges : Umesh Chandra Banerjee, C.J.;C.V.N. Sastri, J

Bench : Division Bench

Advocate : Mrs. A. Vyjanthi, SC for APSRTC, for the Appellant; Mr. K. Vasudev Reddy, for the Respondent

Judgement

Umesh Chandra Banerjee, CJ.

1. This writ appeal is directed against an order of learned single Judge wherein the writ petition was allowed on the basis of the decision of this Court in Writ Petition No. 15163 of 1996 and batch dated 29-10-1996. The learned Advocate appearing in support of the appeal strenuously contended that the learned single Judge clearly fell into error in recording that the matter in issue ought to be dealt with in terms of the earlier decision of this Court in Writ Petition No. 15163 of 1996 and batch. It has been contended that the said judgment has no manner of application to the present case and reliance of the earlier judgment of this Court had been totally erroneous.

2. The contextual facts depict that the writ petitioner-respondent's father died in the year 1989 in harness, however. There is a submission of the writ petitioner that immediately after the death of his father, there were several representations and the last of which was made in the year 1995. No particulars are available as to when those representations are made excepting, however, a bare statement that he has made earlier representations as well. The representation annexed to the writ affidavit is dated 10-11-1995 which is submitted after a period of six years. Assuming that there was such earlier representations, the petitioner

should not have waited for such a long period of six years. The compassionate appointments are usually made by reason of death of bread earner. It is to meet the immediate economic need of the family that such appointments are made and not otherwise. Compassion comes up only on that score.

3. The learned single Judge relied upon the judgment in W.P.No.15163 of 1996 and batch wherein it has been directed by this Court that in the event of there being a compassionate appointment and in the event, the post is not available, a supernumerary post be created in order to meet exigency of the situation. In our view, however, the question of meeting exigency of creating a post in the contextual facts does not and cannot arise. As noted above, six long years have elapsed and compassion cannot extend to the facts of the matter under consideration. It is to meet immediate need and not the need after six years. This aspect of the matter has not been appreciated by the learned single Judge. As such we record our concurrence to the submissions of the learned Advocate in support of the appeal. The learned single Judge in the contextual facts, fell into an error. The appeal therefore, succeeds and the order of the learned single Judge is set aside and quashed. The writ appeal is allowed, accordingly. The writ petition stands dismissed. No order as to costs.

4. In view of the dismissal of the writ petition and as submitted by the learned Advocate appearing for the writ petitioner -respondent herein, we do find some justification in directing the payment of additional monetary benefit, as is the usual practice, with utmost expedition preferably within four weeks from the date hereof.