
(2002) 06 AP CK 0057

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 420 of 2002

Y. Suryakantham and Another

APPELLANT

Vs

The A.P.S.R.T.C.

RESPONDENT

Date of Decision : 06-06-2002

Acts Referred:

Citation : (2002) 06 AP CK 0057

Hon'ble Judges : Ar. Lakshmanan, C.J; Ghulam Mohammed, J

Bench : Division Bench

Advocate : S.M. Subhan, for the Appellant; C.V. Ramulu, for the Respondent

Final Decision : Dismissed

Judgement

Ar. Lakshmanan, C.J.—The 1st appellant is the wife of late Y.G. Rao who died while working as a driver in the A.P. State Road Transport Corporation (hereinafter referred to as "the Corporation"). The 2nd appellant is the second son of the 1st appellant and the said Y.G. Rao. On a representation dated nil made by the 1st appellant, the Corporation passed an order on 22-11-1999 stating that the departmental selection committee interviewed her son on 2-11-1999 under the bread-winner's scheme and he was not selected for the post of conductor on the ground that his brother is working in the Indian army; Therefore, the request made by the 1st appellant to consider her representation to provide employment to her second son - Y. Ramakrishna, was rejected. She again made a representation on 29-11-1999. The Corporation, on 9-10-2000, passed an order stating that her request under the bread-winner's scheme cannot be considered and also further mentioned that she is not entitled to additional monetary benefit, etc., according to the rules in force.

2. The appellants preferred the writ petition for a mandamus declaring the action of the respondents herein in rejecting her case for appointment of the 2nd appellant on compassionate ground (for appointment as conductor) vide proceedings dated 9-10-2000 as unjust and arbitrary and the same was passed

without considering their family position and the distress conditions to which they are put. The learned Judge dismissed the writ petition. Assailing the order of the learned single Judge the present appeal is filed.

3. When the matter came up for admission the learned Judges, without admitting the appeal, however, directed the learned counsel for the Corporation Sri C.V. Ramulu to obtain instructions from the respondents. This order was passed on 21-3-2002. Again the matter was listed for hearing on 4-4-2002. Since the learned counsel was absent it was directed to be posted after the summer vacation. That is how the matter is now listed before us.

4. Sri C.V. Ramulu has placed before us the records. According to the respondents, the authorities of the Corporation have conducted a detailed enquiry on the basis of the representation made, and it was revealed in the enquiry that the eldest son of the 1st appellant is working in the Indian army at Bangalore and is looking after the welfare of the 1st appellant's family and also that the 1st appellant is living with him at Bangalore. Therefore, the representation for employment to her second son on the compassionate ground and under bread-winner's scheme was rejected by the Corporation. The records placed before us clearly show that an enquiry was conducted by the Depot Manager, Tadepalligudem and it is revealed that the 1st appellant is living with her first son who is employed in the army and, therefore, the family is not in penurious circumstances. The learned single Judge dismissed the writ petition on merits and also on the ground of laches holding that the appellants have approached this Court after two years. This is also a relevant factor for not granting the relief.

5. Sri S.M. Subhan, the learned counsel for the appellants, submits that the respondents, without conducting any enquiry have submitted a report that the mother of the 1st appellant herein is living with her eldest son and he is looking after the entire family and, therefore, no credence could be given to the said report. He would further submit that the second son is seeking employment in the Corporation since he has to maintain himself and other members of the family who are also unemployed and, therefore, a lenient and compassionate view must be taken and that employment should be provided to a person who is in need of such help from the Corporation.

6. We are unable to accept or countenance the submission made by the learned counsel for the appellants. Law is well settled. The Hon"ble Supreme Court has held in many cases that the consideration for appointment on compassionate ground is not a vested right and such a right cannot be exercised at any time in future. The object is to enable the bereaved family to get over the financial crisis and the appointment on compassionate ground cannot be claimed and offered after long lapse of time and after the crisis is over. In our opinion, the relief asked for by the appellants cannot be claimed and granted contrary to what is provided in the relevant rules and also contrary to the decisions rendered by the Hon"ble Supreme Court. In the instant case, as rightly held by the learned single

Judge, the application for appointment of the second son of the 1st appellant on compassionate ground was made by the 1st appellant after a long lapse of time on 10-2-2001 after the death of her husband who died in September, 1998. Under such circumstances we are of the view that the application is belated and is, therefore, liable to be rejected. The Hon''ble Supreme Court has also held that the dependants of the deceased employees do not acquire any right of employment nor does any such right accrue to them by mere death of such Government servant. This view was taken by a Division Bench of this Court in Sanjay Kumar Vs. The State of Bihar and Others, . Speaking for the Bench one of us (Dr. AR. Lakshmanan, CJ) also held that the mode of employment by succession is not permissible in law and that offering appointment after an inordinate delay from the date of death of the employee would not serve the purpose of granting immediate financial relief to redeem the grieved family from financial constraints. In our opinion, since the case on hand does not fall within the scope of law, we are not ordering the appeal as prayed for by the appellants. The Hon''ble Supreme Court has also held that there may be pitiable situation but on that score the statutory provisions cannot be put aside. This opinion of the Supreme Court was reiterated in Haryana State Electricity Board Vs. Naresh Tanwar and Another, and State of H.P. and Another Vs. Jafli Devi (Smt.), wherein it is held that extending such concession over the years could not be allowed, so that by such long lapse of time the heir of the deceased employee attains majority and then becomes eligible for being considered for appointment. In the recent judgment in T. Venkatasubbamma Vs. A.P. Co-operative Central Agriculture Development Bank Limited, Hyd., the Supreme Court has again affirmed the said view. The Supreme Court has held that if one of the legal heirs of the deceased employee is already in Government employment, the other family members are not entitled for employment on compassionate ground. Keeping this view and the other opinions expressed by the Hon''ble Supreme Court we are unable to countenance the arguments advanced by the learned counsel for the appellants and we have no other option except to dismiss the appeal.

7. The learned counsel for the appellants would further submit that the respondent-Corporation may be directed to consider the claim of the 1st appellant for grant of additional monetary benefit. We fail to understand under what provision of law she will be entitled for any additional monetary benefit. It is open to the 1st appellant to make an application to the respondent-Corporation claiming such benefit and the respondent-Corporation may consider such application if such monetary benefit is permissible in law. Sri C.V. Ramulu, the learned counsel for the respondent-Corporation at this juncture brought to our notice that the Corporation has already considered the said request and rejected the same. Be that as it may, it is for the Corporation now to consider the claim of the 1st appellant in this regard and pass appropriate orders if an application to the said effect is made.

8. The writ appeal is accordingly dismissed.