

HIGH COURT FOR THE STATE OF TELANGANA

W.P.No.1165 of 2015

Between:

J.Anusha

.....Petitioner

And

APSRTC, rep. by its Managing Director and two others

.....Respondents

JUDGMENT PRONOUNCED ON : 29.01.2024

HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

1. Whether Reporters of Local newspapers : Yes/No
may be allowed to see the Judgment ?
2. Whether the copies of judgment may be : Yes/No
marked to Law Reporters/Journals ?
3. Whether Their Ladyship/ Lordship wish to : Yes/No
see the fair copy of the judgment ?

JUVVADI SRIDEVI, J

HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

W.P.No.1165 of 2015

DATE: 29.01.2024

Between :

J.Anusha

.....Petitioner

And

APSRTC, rep. by its Managing Director and two others

.....Respondents

For petitioner : Mr. V.Siddhartha Goud, Advocate
representing Mr. V.Narasimha Goud,
Advocate.

For Respondents : Ms. Sai Mahitha representing
Mr. Thoom Srinivas, learned
Standing Counsel for TSRTC.

< Gist:

> Head Note:

? CITATIONS:

2008 (5) ALD 701

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI**WRIT PETITION No.1165 OF 2015****ORDER:**

Petitioner is aggrieved of not providing employment to her on compassionate grounds in view of the death of her husband.

2. Heard both sides and perused the record.
3. The husband of the petitioner, namely J.Subhash was appointed as a Contract Driver in the year 2006 in the respondents-Corporation by following due selection process. He worked continuously till the date of his death i.e., 18.12.2009 in the accident that was caused while driving the passenger bus from Nizamabad to Adilabad. Case of the petitioner is that due to the untimely death of her husband, they lost their livelihood and they are not having any other properties so as to survive with two minor sons, aged 11 and 14 years apart from one minor daughter. Therefore, the petitioner has made an application to respondent No.2 seeking to provide employment on compassionate grounds as a Record Tracer or Conductor, as she fulfills the requisite educational qualifications for the said posts. The said request of petitioner was rejected on the ground that the service of the late husband of the petitioner was not regularized by the time of his death,

and hence, Bread Winner Scheme was not applicable to them. Hence, the writ petition.

4. Respondents have filed counter affidavit admitting the service of late husband of petitioner with the Corporation as a Contract Driver. The only contention of respondents is that the services of the persons appointed along with the deceased husband of the petitioner were regularized with effect from 01.01.2010, whereas, the husband of petitioner had died on 18.12.2009 i.e., earlier to the date of such regularization. It is their case that the scheme of compassionate appointment in the respondents-Corporation is applicable only to the dependants of the regular employees died in harness and that the dependants of the casual/contract employees died in harness are eligible only for additional monetary benefits but are not eligible for compassionate appointment as per Circular dated 05.05.2000. It is stated that the issue of extending the benefit of Bread Winner Scheme to the dependants of the Contract Employees is pending with the Government. It is their case that even if the scheme of compassionate appointment for the dependants of the Contract employees comes into force in future, the petitioner herein is not eligible for benefit under such scheme, since the date of death of her husband falls much prior

to the cut-off date i.e., 03.08.2013, from which date, the scheme was sought to be implemented. Accordingly, they prayed for dismissal of the writ petition.

5. The un-disputed facts of the case are that the husband of petitioner was appointed in the respondents-Corporation as a Contract Driver in the year 2006 after undergoing due process of selection. It is also not in dispute that he died on 18.12.2009 in the accident caused while on duty, driving the bus from Nizamabad to Adilabad. The claim of the petitioner for compassionate appointment was rejected on the sole ground that the husband of the petitioner was working on contract basis and his services were not regularized by the time of his death, and hence, the scheme of compassionate appointment cannot be applied to his case. It is to be noted that the husband of petitioner had died on 18.12.2009, whereas, the services of the persons who were appointed along with him, were regularized with effect from 01.01.2010 i.e., after 13 days of his death.

6. In support of his case, the learned counsel for petitioner has relied on the judgment of the erstwhile High Court of Judicature, Andhra Pradesh at Hyderabad in *K.Prasanna Kumar v. Superintending Engineer (Operation), APCPDCL, Kurnool and*

*another*¹. In the said judgment, when an employee had died prior to regularization of his service and the services of his colleagues were regularized one month thereafter, this Court has directed to provide compassionate appointment to the son of the deceased. This judgment is squarely applicable to the case on hand and the case of the petitioner is on better footing, as her husband had died while on duty on 18.12.2009 and within 13 days thereafter, the services of similarly situated persons were regularized i.e., on 01.10.2010. Thus, as per the law laid down by this Court in the aforesaid judgment, the petitioner is eligible for compassionate appointment.

7. It is to be noted that the scheme of compassionate appointment is a beneficial legislation to save the families of the deceased employees from starvation. The death of the husband of petitioner was not due to any other reason but it was the result of an accident caused while discharging his duties as a Driver of the passenger bus belonging to the respondents-Corporation. Therefore, on mere technicalities, the request of petitioner for compassionate appointment cannot be rejected. Keeping in view the regularization of similarly appointed persons soon after the death of the husband of petitioner,

¹ 2008 (5) ALD 701

this Court is of the considered view that the benefit of compassionate appointment can be extended to the petitioner. The pendency of issue of providing compassionate appointment to the family members of deceased employees with the Government, has nothing to do to reject the case of the petitioner.

8. For the aforesaid reasons, this writ petition is allowed setting aside the order dated 30.12.2014. The respondents are directed to provide compassionate appointment to the petitioner in any suitable post as per her qualifications within a period of three (03) months from the date of receipt of a copy of this order. No costs.

Pending miscellaneous applications, if any, shall stand closed.

JUVVADI SRIDEVI, J

Date: 29.01.2024

N.B:
L.R. copy be marked.
b/o
lk/rev