

IN THE HIGH COURT OF TELANGANA AT HYDERABAD**W.P. No. 9542 of 2019**

Between:

P.Naveen Kumar

... Petitioner

And

The State of Telangana and others

... Respondents

JUDGMENT PRONOUNCED ON: 05.06.2023

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : yes

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

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> Head Note:

! Counsel for the Petitioner : Mr C.Praveen Kumar

^ Counsel for the Respondents: G.P. for Services II

? Cases Referred:

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P. No. 9542 of 2019****ORDER:**

Heard the learned counsel for the Petitioner and the learned Government Pleader for Services I and counsel for the unofficial respondents.

2. The Writ Petition is filed to issue a Writ of Mandamus declaring the proceedings issued by the 4th Respondent vide Procs No. A/1740/2018 dated 24.09.2018, as illegal, arbitrary, against the principles of natural justice and legitimate expectation, fair play and in violation of Article 14, 15, 16 & 21 of the Constitution of India and to quash/set aside the same.

2. The Case of the Petitioner, in brief, is as follows:

a) That one Mr. D. Ramaiah S/o. Lakshmaiah used to work as Village Revenue Assistant of Chowdapur Village, Kulkacherla Mandal, Vikarabad and he died during his employment on 02.08.2018 resulting in a vacancy for VRA in Chowdapur Village, Kulkacherla Mandal, Vikarabad District.

b) The Petitioner herein is the resident of Chowdapur Village and he has all the qualification and eligibility to be appointed

as VRA for Chowdapur Village, Kulkacherla Mandal, Vikarabad District and as such, he had made application to the 4th respondent seeking to appoint the Petitioner as VRA.

c) The 4th respondent even after receipt of application from the Petitioner had not passed any orders and the petitioner left with no other alternative made an application to the 2nd respondent on 17.09.2018 seeking to be appointed as VRA, as he possessed all eligible qualification to be appointed as VRA. From then on, the petitioner has been continuously roaming around the office of 2nd respondent seeking to pass orders appointing him as VRA but 2nd respondent has not passed any orders.

d) While matter stood thus, the 4th respondent issued proceedings vide ProcgNo.A/1740/2018 dated 24.09.2018 appointing the 5th respondent VRA for chowdrapur village, Kulkacherla Mandal Vikarabad district on compassionate grounds and the petitioner upon the knowledge of the said fact had approached the 4th respondent but the 4th respondent didn't give any reply instead stated that he can do whatever he wants.

e) The 5th respondent herein was married to Mr.Mallaiah in the year 2000 and started living with her husband at Lingampally village Vikarabad district and the family of the 5th respondent is financially well settled and is living happily after the marriage. From that day onwards the 5th respondent did not have any relation with Chowdapur Village and that even the name of the 5th respondent was removed from Chowdapur Village voter list and has been added to Lingampally voter list vide voter ID No. WLE0329433 and despite all this, the 4th respondent without taking into consideration the application made by the petitioner had simply passed the orders appointing 5th respondent on compassionate grounds.

f) Mr.Yadaiah approached the Junior Civil Judge cum Chairperson Mandal Legal Services Committee, Parigi challenging the action of the 4th respondent and to look into the matter and to do justice and the 4th Respondent was issued notice. The 4th respondent herein had submitted his report stating that he has received NOC from other legal heirs of D. Ramaiah and issued notice calling for objections and since no objections were received, the 5th respondent was

appointed as VRA of Chowdapur village, Vikarabad district and stated nothing about the application of the petitioner and about the residence of the 5th respondent.

g) The 4th respondent herein, in active collusion with the 5th respondent had misused his powers and without following due procedure established under law passed orders and gave appointment orders to his well-wishers which are completely contrary to law illegal and against principles of natural justice and moreover the 4th respondent without assigning any valid reason, when there were different persons available to the post of VRA appointed 5th respondent as VRA of Chowdapur village, Vikarabad district and had deviated in understanding the object of the act.

h) The 4th respondent while filling the vacancy has not considered the local candidate and brought the other villager appointing 5th Respondent as VRA on Compassionate grounds and that the 4th respondent while exercising his rights in the compassionate appointments appointed 5th respondent which is illegal, arbitrary and contrary to law, despite the petitioner

possessing all the requisite qualification for appointment as VRA of Chowdapur village. Hence this Writ Petition is filed.

4) The Counter Affidavit filed by the 2nd and 3rd Respondents, in brief, is as follows:

a) One Mrs. Smt. MekalaYadamma w/o Mallaiah has filed an application on 04.9.2018 and requested to appoint her as village servant of Chowdapur village in place of a deceased father D. Ramaiah and the same was inquired through MRI and V.R.O of Chowdapur village.

b) A consent letter had been obtained from the elder daughter of the deceased VRA, to appoint 5th Respondent as VRA in the deceased VRA's position and a notice has been issued and has been affixed in the Village Gram Panchayath Office for objections, if any, but no objections or claims have been received within the stipulated period and hence as per rule 8(3) of the V.R.A's Service Rules Smt. MekalaYadamma has been appointed as VRA of Chowdapur Village on compassionate grounds, subject to the condition that she has to pass the S.S.C within a period of 3 years failing which the appointment shall be cancelled automatically without any

notice. The said order was issued vide A/1740/2018 dated 24.09.2018, and is issued on temporarily basis.

c) The Answering respondent in the petition before the Jr. Civil Judge cum Chairperson , Mandal Legal Services Committee, has submitted a report vide letter No. A/1740/2018 dated 21.12.2018 before the Jr. Civil Judge cum Chairperson , Mandal Legal Services Committee stating that Smt. Yadamma has been rightly appointed as per the rules 8(3) of V.R.A's Service Rules on compassionate grounds. An enquiry was conducted while providing employment to 5th Respondent herein.

d) The Petitioner is not a legal heir to late Mr. D. Ramaiah and as such the petitioner cannot be appointed on compassionate grounds.

e) The 4th Respondent after proper enquiry and being satisfied has appointed the 5th Respondent as VRA of the Chowdapur Village, Vikarbad District issuing proceedings vide Procs. No. A/1740/2018 dated 24.09.2018.

f) After being married to one Mr. Mallaiah in the year 2000, the 5th Respondent due to harassment by her Husband

had come to her parents' house along with her three (3) children and since then, they were dependent on Late D. Ramaiah, as the husband of 5th respondent was not financially supporting her and her children. Meanwhile, her mother passed away due to ill health.

g) The Documents, i.e., the Voter ID of the 5th Respondent submitted by the Petitioner is incorrect, as the voting list was prepared 15 years ago, when the 5th Respondent was with her husband and in contra, as of now, the 5th respondent was voting at Chowdapur Village and has the Voter ID vide WLE1604784. Moreover, the residing address in both the Voter ID and Aadhar Card no. vide 2391 0365 7523 show that 5th respondent is residing at Chowdapur Village only.

h) Not only the family of the 5th Respondents but also the Minor children of 5th Respondents late brother were also dependent on Late D. Ramaiah and when D. Ramaiah died, the 5th Respondent had worked on Daily Wage to provide food for her children and to the minor children of her late brother and at this point of time, it was discussed and decided to apply for the post of her father's late VRA on compassionate appointment.

i) The case before Junior Civil Judge cum Chairperson, Mandal Legal Services Committee, at Parigi are closed on the ground that the matter was not settled before Lok-Adalat.

j) 5th Respondent being the legal heir of the late D. Ramaiah is entitled for the post of VRA on compassionate grounds with the consent of other legal heirs and the petitioner being the 3rd party has no locus to question the compassionate appointment.

k) It is already decided by the courts that, married son and married daughter who are dependent on father who works as government servant, dies before his retirement would be equally considered for job on compassionate grounds and the fact that daughter is married does not result in her ceasing to be the daughter if the deceased government servant.

l) As per rule 8(3) of Village Revenue Assistants Service Rules held that "Notwithstanding anything contained in sub-rule (1) and (C) of subrule (2) above, the spouse/dependent children of a village servant who dies in harness before attaining the age of 60 years may be appointed as village

servant provided that there is no other earning member in the family of such deceased village servant and an application is made in this regard within a period of one year from the date of death of search Village Servant" and hence there is no wrong in appoint 5th respondent as VRA on compassionate appointment.

m) The 5th respondent has been working as VRA for over 2 (Two) years without any blemish and to the satisfaction of the superior authorities and the appointment is in accordance to Service Rules. Hence, the Writ Petition is filed with personal grudge on 5th Respondents family and to harass the family members and is devoid of merits and liable to be dismissed.

PERUSED THE RECORD :

5. Order impugned of the 4th Respondent vide Proc.

No.A1740/2018, dated 24.09.2018 reads as under :

"In the reference 1st cited, Smt. MekalaYadamma W/o Mallatah R/o Chowdapur Village, dated: 04.09.2018. has filed an application stating that her father namely Sri. D Ramaiah S/o Lakshmaiah worked as Village Servant of Chowdapur Village and expired on 02.08.2018 while in Service and requested to appoint her as Village Servant.

Vide reference 2 cited, the matter has been got enquired by the Mandal Girdawar and Village Revenue Officer, Chowdapur Village and reported that Sri. D.

Ramaiah S/o Lakshmaiah aged about (59) years worked as Village Servant of Chowdapur Village and expired on 02.08.2018 while in Service. His legal heirs Smt. MekalaYadamma W/o Mallalah R/o Chowdapur Village has passed 5th class in the 2002. He has no legal heirs except his daughter of the deceased VRA. The Mandal Girdawar. Kulakcharla Mandal has recommended to appoint the legal heir SmulckalaYadamma W/o Mallaiah R/o Chowdapur Village as Village Servant of Chowdapur Village on Compassionate Grounds. A notice has been issued to the concerned and affixed on the notice board of Grama Panchayath of Chowdapur Village calling for objections if any but no objections or claims have been received within the stipulated period.

In view of the above, and as per the rule 8(3) of the VRA's Service rules, Smt. KelalaYadamma W/o Mallaiah is appointed as Village Revenue Assistant of Chowdapur Village on Compassionate Grounds, however subject to the condition, that he should acquire S.S.C. within a period of (3) years, failing which the appointment shall stand automatically without any notice, this order is purely on temporarily basis."

6. The report of Tahsildar, Kulkacherla Mandal vide Letter No.A/1740/2018, December 2018, reads as under:

"I invite kind attention to the reference cited and submit that the Junior Civil Judge Cum Chair Person, Mandal Legal Services Committee, PargiR.R.Dist has issued notice vide No. DIS.No. 1032/2018, dated: 15.11.2018 stating that PargiYadaiah S/o Lingaiah R/o Chowdapur Village, Kulkacherla Mandal has filed a petition before the Junior Civil Judge Cum Chair Parson, Mandal Legal Services Committee PargiR.R.Dist for appointment of other Villager Smt. Padamma W/o Mallaiah R/o Lingampally Village as VRA of Chowdapur village and not followed the rules and regulations

contemplated under Law as such injustice was done to him.

In this regard, it is submitted that Sri. D. Ramaiah S/o Lakshmaiah was working from 1990 to 2018 as a Village Servant of Chowdapur village. He expired on 02.08.2018 while he was in service. After his death the Village Servant post has fallen vacant due to which Revenue works and other works have been held up. The family members of the deceased village Servant are as follows:

Sl.No	Name of the Family Member	Relation	Remarks
1	D. Chinnamma	Wife	Expired
2	PeddaYadamma W/o Swamy R/o PalguGudem	Daughter	Married
3	ChinnaYadamma W/o. Malliah R/o. Lingampally	Daughter	Married
4	D. Sreenu	Son	Expired
5	Thirupathamma	Daughter in Law	Expired
6	Thejashwini	Grand Daughter (7 Years)	Student (Minor)
7	Poojitha	Grand Daughter (7 Years)	Student (Minor)
8	Akhila	Grand Daughter	ChinnaYadamma Children.
9	Shiva Kumar	Grand Son	
10	Anitha	Grand Daughter	
11	Swetha	Grand Daughter	PeddaYadamma Children.
12	Radhika	Grand Daughter	

The two minor children of deceased Son who is expired are left alone, and two daughters are left behind the deceased.

The Smt. PeddaYadamma W/o Swamy elder daughter of the deceased has given a consent stating that she has no objection for appointment of Smt. Yadamma as VRA of Chowdapur village in her father's place. A notice was issued to the concerned and affixed on the notice board calling for objections if any and objections have been received within the stipulated period.

Therefore Smt. MekalaYadamma (Aliyas) ChinnaYadamma Younger daughter of the deceased Sri Ramaiah S/o Laxmaiah R/o Chowdapur Village who is the legal heir of the original Village Servant Sri. D. Ramaiah S/o Laxmaiah R/o Chowdapur village was appointed as Village Servant of Chowdapur village following due procedure as per rules and regulations on compassionate grounds."

7. The relevant paragraph of the Counter affidavit filed on behalf of the Respondents 2 and 3:

"That one SmtMekalaYadamma W/o Mallaiah R/o Chowdapur Village has filed an application on 04.09.2018 and requested to appoint her as Village servant of Chowdapur Village in place of her deceased father name D.RamaiahStoLakshimarali The matter has been got enquired through the MRI & V.RO. of Chowdapur Village and it is revealed that Sn D.Ramaiah S/o Lakshmaiah aged about (59) years worked as Village servant of Chowdapur Village expired on 02.08 2018 white in service. Further recommended to appoint the deceased daughter Smt. MekulaYadamma W/o Mallaiah as Village servant of Chowdapur Village Kulkacherla Mandal being legal heir.

Family members of the deceased Village servant are as follows:

Sl. No.	Name of the Family Member	Relationship	Age	Marital Status
1	PeddaYadamma	Daughter	35	Married
2	ChinnaYadamma	Daughter	30	Married
3	Tejashiwini	Grand Daughter	07	Student
4	Pujitha	Grand Daughter	06	Student

Further Smt. PeddaYadamnu W/o Swamy elder daughter of the deceased also given a consent

letter stating that she has no objection for appointing Smt. Yadamma as VRA of Pajitha Chowdapur in her fathers place. A notice has been issued and affixed in the Village Gram panchayath office as well as in the Office notice board calling for objections if any, but no objections or claims have been received within the stipulated period. Hence as per rule 8(3) of the V.RA Service Rules Smt.MekaluYadamina W/oMallaiah has been appointed VRA Chowdapur Village Kulkacherla Mandal Vikarabad District on Compassionate grounds, subject to the condition that she has to pass S.S.C within a period of (3) years. failing which the appointment shall be stand cancelled automatically without any notice. The order issued vide A/1740/2018 of 24.09.2018 is purely on temporarily basis"

8. The counter affidavit filed on behalf of Respondent No.5, in particular, Para 15 reads as under:

"15. It is further submitted that, the Village Revenue Assistants Service Rules are very clear i.e., Rule 8 (3) held that "Notwithstanding anything contained in sub-rule (1) and clause (c) of sub-rule (2) above, the spouse/dependent children of a Village Servant who dies in harness before attaining the age of 60 years may be appointed as Village Servant provided that there is no other earning member in the family of such deceased Village Servant and an application is made in this regard within a period of one year from the date of death of such Village Servant." Therefore, there is no wrong in appointing me on compassionate grounds as

V.R.A. of Chowdapur Village, Kulkacherla Mandal by the 4th respondent herein.”

9. DISCUSSION AND CONCLUSION :

i. The specific case of the Petitioner is that the Petitioner is resident of Chowdapur Village, Kulkacherla Mandal, Vikarabad District and he is qualified SSC and is having all qualification and eligibility to be appointed as VRA for Chowdapur Village, Kulkacherla Mandal, Vikarabad District and the Petitioner therefore made an application to the 4th Respondent seeking to appoint the Petitioner as VRA since the Petitioner possesses all necessary eligibility criteria. But however, ignoring the Petitioner's candidature the 5th Respondent has been appointed as VRA though the 5th Respondent is not a resident of Chowdapur Village, Kulkacherla Mandal, Vikarabad District, since the 5th Respondent is living with her husband at Lingampally Village, Kulkacherla Mandal, Vikarabad District and that though the Petitioner is the local candidate, Petitioner's candidature has been ignored and the 5th Respondent has been appointed as VRA on compensatory grounds.

ii) A bare perusal of the detailed report of the Tahsildar, Kulkacherla Mandal, Vikarabad District, vide Letter No.A/1740/2018, dated .12.2018 submitted to the **Junior Civil Judge-cum-Chairperson, Mandal Legal Services Committee, Pargi, R.R. District**, which clearly brings on record the details of the family members of the deceased Village Servant and the same indicates that the deceased left behind two daughters and two minor children of deceased son who had expired and also the fact that elder daughter of the deceased Smt. PeddaYadamma, W/o. Swamy had given a consent stating that she had no objection for appointment of the 5th Respondent as VRA of Chowdapur Village, Kulkacherla Mandal, Vikarabad District, in her father's place and that a notice was issued to the concerned and also affixed on the Notice Board calling for objections if any and no objections or claims had been received within the stipulated period and hence as per Rule 8(3) of VRA Service Rules the 5th Respondent had been appointed as VRA of Chowdapur Village, Kulkacherla Mandal, Vikarabad District on compassionate grounds subject to the condition that the 5th Respondent has to pass SSC within a period of 3 years failing

which the appointment shall stand cancelled automatically without any notice.

iii) A bare perusal of Rule 8(3) of the Village Revenue

Assistant Service Rules read as under :

8. Appointment in resulting vacancies due to amalgamation or bifurcation of villages: -

(3) Notwithstanding anything contained in sub-rule (1) and clause (c) of sub-rule (2) above, the spouse/dependent children of a Village Servant who dies in harness before attaining the age of 60 years may be appointed as Village Servant provided that there is no other earning member in the family of such deceased Village Servant and an application is made in this regard within a period of one year from the date of death of such Village Servant.

iv) In view of the fact as borne on record the report submitted by the Tahsildar, Kulkacherla Mandal, Vikarabad District addressed to the Junior Civil Judge-cum-Chairperson, Mandal Legal Services Committee, Pargi, R.R. District, clearly evidences the fact that the deceased left behind two daughters i.e., 5th Respondent herein and elder daughter Smt. PeddaYadamma, who had given her consent stating that

she had no objection for appointment of the 5th Respondent as VRA of Chowdapur Village, Kulkacherla Mandal, Vikarabad District, in her father's place and two minor children of the deceased son who had expired, the Respondents herein duly taking into consideration Rule 8(3) of the Village Revenue Assistants Service Rules, had appointed the 5th Respondent on compassionate grounds. The specific case of the 5th Respondent that she is a dependent of the deceased employee though she is a married daughter the husband having deserted her with her three children long back and she had been living with her father and all the other circumstances showing that the 5th Respondent is dependent on her father and had the responsibility of looking after 5 minor children are all explained at para 13 of the counter affidavit filed by the 5th Respondent.

10. This Court opines that the Petitioner is only a resident of Chowdapur Village, Kulkacherla Mandal, Vikarabad District, and is no way related to the family of the deceased employee. The report of the concerned Tahsildar on record of December 2018 clearly indicates that the due procedure had been followed and the 5th

Respondent had been appointed on compassionate grounds as per Rule 8(3) of the Village Revenue Assistant Service Rules. This Court further opines that the compassionate appointment is an exception to the general rule of appointment and is in favour of the dependents of the deceased dying in harness and leaving his family in penury and without any means of livelihood and in such cases out of pure humanitarian consideration taking into consideration of the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the Rules to provide gainful employment to one of the dependent of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The Petitioner having failed to raise any objection within the time stipulated when objections were called for as per the due procedure followed by the Respondent Authority under Rules in the appointment of the 5th Respondent

herein has approached the Court by filing the present writ petition on frivolous grounds.

11. Taking into consideration of all the above referred facts and circumstances, this Court opines that the present writ petition is devoid of merits and the same is accordingly dismissed. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SUREPALLI NANDA, J

Date: 05.06.2023

Note: L.R. copy to be marked
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