

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WRIT PETITION NO.19692 of 2021

Between:

Vadluri Rajani

...Petitioner

AND

1. The State of Telangana, rep. By its Principal Secretary, Home Department, Secretariat, Hyderabad and four others

...Respondents

ORDER PRONOUNCED ON: 12.06.2023

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE K.SARATH

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

JUSTICE K.SARATH

THE HON'BLE SRI JUSTICE K.SARATH**+WRIT PETITION NO.19692 of 2021**

%Dated 12.06.2023

Vadhuri Rajani

...Petitioner

AND

\$ 1. The State of Telangana, rep. By its Principal Secretary,
Home Department, Secretariat, Hyderabad and another

...Respondents

! Counsel for Petitioner : Sri M.K.Ratnam

^ Counsel for Respondents: Sri M.V.Rama Rao

Spl. Government Pleader for Home

< GIST :

> HEAD NOTE :

? Case referred

1. 2013 (4) ALT 501 (DB)
2. (2019) 3 ALD 338

THE HON'BLE SRI JUSTICE K.SARATH
WRIT PETITION No.19692 of 2021

ORDER:

1. The writ petition is filed under Article 226 of Constitution of India seeking the following relief:

“ to issue a writ or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings of the respondent No.2 in L.Dis.No.510/ME-5/2019 dated 23.10.2019 and respondent No.3 in C.No.4378/A1/2019 dated 04.11.2019 as illegal, irregular, arbitrary, without jurisdiction, violative of principles of natural justice and Articles 14 and 21 of Constitution of India apart from being in negation of the judgment of this Court in W.P.No.16243/2013 dated 20.06.2013 and consequently set aside the same with a direction to the respondents to give suitable appointment to the petitioner on compassionate grounds.....”

2. Heard Sri M.K.Ratnam, learned Counsel for the petitioner and Sri M.V.Rama Rao, Learned Special Government Pleader appearing for the respondents.

3. The learned Counsel for the petitioner submits that the father of the petitioner viz., Sri Maredupaka

Sudhakar worked as Sub-Inspector of Police and died on 22.12.2017 while in service. The parents of the petitioner are having four daughters and they are all married. The petitioner, being elder daughter of her parents, is residing with her parents along with husband. As per the compassionate appointment scheme, the petitioner is eligible and qualified to be appointed on compassionate grounds. Accordingly, the mother of the petitioner made a representation to the respondents within one year from the date of death of father of the petitioner and the respondents have rejected the case of the petitioner basing on the Memo No.406/10/A1./Admn.II/2004, Fin. (Admn.II) dated 20.03.2004 and passed impugned orders on 23.10.2019.

4. The learned Counsel for the petitioner further submits that the impugned orders passed by the respondents are contrary to the G.Ms.No.350, GAD

(Ser.A) Department dated 30.07.1999 and the clarification in Memo No.116417/Ser.A/2003-1, dated 08.10.2003. As per the said order, if the deceased Government employee was having more than one dependant married daughter and when the spouse of the deceased Government employee is not willing to avail the compassionate appointment, one of the dependant married daughters may be considered for appointment, subject to eligibility as per the scheme of compassionate appointment.

5. The learned Counsel for the petitioners further submits that now the respondents without taking account of the G.Ms.No.350, GAD (Ser.A) Department dated 30.07.1999 and the clarification in Memo No.116417/Ser.A/2003-1, dated 08.10.2003 rejected the case of the petitioner basing on the Memo No.406/10/A1./Admn.II/2004, Fin. (Admn.II) dated 20.03.2004 which was subject matter before this Court

in number of Writ Petitions and the Division Bench of this Court declared that the said Memo was not the policy of the Government and requested to allow the writ petition.

6. The learned Counsel for the petitioner in support of his contention relied on the following judgment:

1. Commissioner of Police, Hyderabad and others Vs. K.Padmaja¹

7. The Learned Special Government Pleader appearing for respondents basing on the counter submits the petitioner is a married daughter of the deceased and as per Memo No.406/10/A1. /Admn.II/2004, Fin. (Admn.II) dated 20.03.2004, once marriage was performed a daughter is not dependant on her father even if she is unemployed or her husband is unemployed and a married daughter is dependent on her father if she is living with her

¹ 2013 (4) ALT 501 (DB)

parents when her husband deserts her and the respondents have rightly rejected the case of the petitioner in the impugned orders as the petitioner is the married daughter of the deceased and she is not dependant on the deceased employee and she is the dependant on her husband and requested to dismiss the writ petition.

8. After hearing both sides and on perusing the records this Court is of the considered view that the petitioner is the eldest daughter of the deceased Maredupaka Sudhakar, who died on 22-12-2017 while in service as Sub-Inspector of Police and as per the G.O.Ms.No.350, GAD (Ser.A) dated 30.07.1999 and clarification issued in Memo No. 116417/Ser.A/2003-1 dated 08.10.2003, the petitioner is eligible for appointment on compassionate grounds.

9. The relevant portion of G.O.Ms.No.350, General Administration (Services-A) Department, dated 30.07.1999 is as follows:

"When there is only a married daughter to the deceased Government employee without older or younger brothers or sisters and the spouse of the deceased Government employee is not willing to avail the compassionate appointment, such married daughter may be considered for compassionate appointment, provided she is dependent on the deceased Government employee".

10. Clarification Memo No.116417/Ser.A/2003-1 dated 08.10.2003, reads as follows:

"1. As per the scene of compassionate appointment to the dependants of the deceased Government Employees the dependant married daughter may be considered for compassionate appointment when the deceased employee was having only a married daughter and the spouse is not willing to avail the compassionate appointment or the spouse is not eligible for compassionate appointment.

2. In the reference 5th cited, the President, Andhra Pradesh Non-Gazetted Officers' Association has requested for a clarification n whether the compassionate appointment may be consider to one of the dependant married Daugherty when the deceased Government employee was having married daughters more than one.

3. *It is clarified that the policy of the Government is to provide compassionate appointment to the dependants of the deceased Government employees to help the family in distress and accordingly if the deceased government employee was having more than one dependant married daughter and when the spouse of the deceased government employee is not willing to avail the compassionate appointment, one of the dependant married daughters may be considered for compassionate appointment, subject to eligibility as per the scheme of compassionated appointment”.*

11. Now, the respondents have rejected the case of the petitioner basing on the Memo No.406/10/A1./Admn.II/2004, Fin. (Admn.II) dated 20.03.2004, which was the subject matter before this Court in **Commissioner of Police, Hyderabad and others Vs K.Padmaja (supra 1)**, and in **V.Sashi Kala Vs. the District Collector and others²** and not accepted the contention of the respondents therein and directed to provide compassionate appointment to the married daughter even if she is living with her husband in a separate house.

² (2019) 3 ALD 338

12. The relevant portion of the judgment in **Commissioner of Police, Hyderabad and others (supra 1)** is as follows:

“10. Basing on the additional material placed by the learned counsel for the petitioners, before this Court to-day, it is submitted by the learned counsel for petitioners that the applicant and her husband were staying separately with their own income. A perusal of report dated 15.06.2013 makes it clear that the husband of the applicant is an unemployee. Even with regard to income of the applicant, it is clearly stated that she is staying in the out house of house bearing No.2-2-12/6, D.D.Colony, Amberpet, Hyderabad and is eking livelihood by sewing clothes. There is no other material to reject the claim of the applicant as she is not having definite income of her own and she was dependant on her late father. Even if the applicant is residing in a separate house, that by itself, is not a ground to reject the claim of appointment. So far as the income of the applicant is concerned, it is proved that she is not having any independent income to live on her own and she is also taking care of her mother (widow of the deceased employee). No valid reasons were recorded by the authorities to reject the claim of the applicant for compassionate appointment. Even by way of counter, no reasons were added to support the order passed by the authorities. Except the contention of the petitioners that the respondent is getting some income by suing clothes and

residing separately in an out-house, and, a vague report placed on record to-day, there is no other material to show that she is having definite income on her own. Even as per the said applicant's report, husband is stated to be unemployed. Yet another defence is taken by the learned counsel that as the wife of the deceased is getting family pension, the applicant is not entitled for compassionate appointment. But the same cannot be accepted. Merely because family pension is being paid to the wife of the deceased, the same is not a ground to deprive the benefit of compassionate appointment under this scheme notified by the Government for the children of the deceased who died in harness"

13. The relevant portion of the judgment in **V.Shashi Kala Vs. District Collector and others (supra 2)** is as follows:

"8. In the present case, undisputedly the petitioner is the elder daughter of the deceased and she along with her husband is staying at the place of the deceased even after her marriage. In the society, there are two types of families - one is wealthy and the other is poor. The wealthy people ask their daughters after marriage either to stay with them or to stay separately by making necessary arrangements. In the second category, the daughters continue to stay with their parents depending upon their income even after their marriage when they do not have source of income. The

present case is of the second category. As stated by the Revenue Divisional Officer, the petitioner has been staying with the widow of the deceased, and even after marriage, the petitioner along with her husband is depending upon the earnings of the deceased. The said fact has not been rebutted by the respondents. But the respondents rejected the case of the petitioner on the ground that her case is not covered in terms of Memo No.406 dated 20.3.2004, whereas the similar issue has been considered by this Court in W.P.No.16242 of 2013 as mentioned above. It is pertinent to mention that the learned Counsel for the petitioner before the Tribunal has mentioned about the case of this Court decided in W.P.No.16242 of 2013, wherein the memo and the social and economic conditions of the respondent-applicant therein were considered by this Court. However, the learned Tribunal ignored those facts and rejected the application filed by the petitioner herein. We are of the considered view that the case of the petitioner herein is on a better footing than the respondent-applicant in W.P.No.16242 of 2013 and therefore, the petitioner is entitled to be appointed in a suitable post on compassionate grounds. The proceedings of the 2nd respondent dated 25.1.2017 are set aside. Consequently, the order of the Tribunal dated 1.8.2017 in O.A.No.1771 of 2017 is set aside. We hereby direct the respondents-authorities to appoint the petitioner on compassionate grounds in a suitable post and issue appointment letter to her, within four weeks from the date of receipt of a copy of this order”

14. In view of the law laid down by the Division Bench of this Court in **Commissioner of Police, Hyderabad and others Vs K.Padmaja (supra 1)** and **V.Sashikala Vs. the District Collector and others (supra 2)** and as per the policy of the Government in G.O.Ms.No.350, GAD (Ser.A) Department dated 30.07.1999 and the clarification in Memo No.116417/Ser.A/2003-1 dated 08.10.2003, the respondents cannot reject the case of the petitioner for appointment on compassionate grounds and the impugned orders passed by the respondents is liable to be set aside.

15. In view of the above findings, this writ petition is allowed by setting aside the impugned Proceedings No.510/ME-5/2019 dated 23.10.2019 passed by the respondent No.2 and the respondents are directed to reconsider the case of the petitioner for providing appointment on compensation grounds, without taking

into account of Memo No.406/10/A1/Admn.II/2004,
Fin (Admn.II) dated 20.03.2004, within eight (8) weeks
from the date of receipt of copy of this order.

16. Miscellaneous petitions, pending if any, shall
stand closed.

JUSTICE K.SARATH

Date: 12.06.2003

Note:
L.R copy to be marked
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