

***HIGH COURT OF ANDHRA PRADESH :: AMARAVATI**

+WRIT PETITION No.25156 of 2022

Between:

#Metla Deena Margaret

...PETITIONER

AND

\$The Sate Of Andhra Pradesh and Others

...RESPONDENT(S)

JUDGMENT PRONOUNCED ON **28.03.2025**

THE HON'BLE DR.JUSTICE K. MANMADHA RAO

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? - Yes -
2. Whether the copies of judgment may be marked to Law
Reporters/Journals - Yes -
3. Whether Their Ladyship/Lordship wish to see the fair
copy of the Judgment? - Yes -

DR.JUSTICE K. MANMADHA RAO

* THE HON'BLE DR.JUSTICE K. MANMADHA RAO

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! Counsel for the Petitioner : Sri J. Ravi Kumar

! Counsel for Respondents: GP for Services-I

<Gist :

>Head Note:

? Cases referred: 1. WP No.35294/2014 dated 19.3.2021

2. 1994 AIR SCW 2305

APHC010406342022



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3310]

FRIDAY ,THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 25156/2022

Between:

Metla Deena Margaret

...PETITIONER

AND

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...RESPONDENT(S)

Counsel for the Petitioner:

1.J RAVI KUMAR

Counsel for the Respondent(S):

1.GP FOR SERVICES I

The Court made the following:

ORDER :

This writ petition is filed under Article 226 of the Constitution of India for the following relief:

“...too issue order direction more particularly one in the nature of writ of MANDAMUS declare the proceedings of 3rd respondent in proceedings REC No A1/26/2021/Kurnool Dt 25/07/2022 as illegal and contrary to the guidelines framed by the government and violative Art14 16 and 21 of the constitution of the India and consequently set a side the proceedings of 3rd respondent in REC No A1/26/2021/Kurnool Dt 25/07/2022 by appointing the petitioners on compassionate grounds in the place of her deceased sister and to pass...”

2. The grievance of the petitioner is that her sister by name Metal Hepsiba was appointed as a Office Subordinate in Commercial Tax Department, Kurnool by the Joint Collector, Kurnool, vide proceedings No A/847/2010 Dt.11/09/2012. However, while discharging her duties, she died on 31/08/2021 due to brain hemorrhage. The petitioner's father by name Devadhanam having two daughters and the petitioner herein is the younger daughter and there is no male member in their family and her parents expressed their willingness to appoint the petitioner in the place of her deceased elder sister, accordingly, the petitioner submitted her application to the respondents on 12/01/2022 dually requesting them to appoint her in the place of her deceased elder sister except herself there is no other earning member of her family. In the application, the petitioner categorically disclosed that she is an unemployed married women and herself only person to take care her old age parents who is suffering with medical problems. It is stated that the Government of Andhra Pradesh time and again issued G.Os relating to the appointments on compassionate grounds in the place of the deceased employee. As per the G.O.Ms.No.687GAD(Ser.A)Department Dt.03/10/1997 Issued orders providing permanent relief to the family of a deceased government servant who dies in harness by appointing the family members to the posts for which such dependents are eligible subjective certain condition specified thereIn.

It is stated that, earlier the Petitioner application was rejected by the authorities in proceedings R.C.No.A1/26/2021 Dt.21/03/2022 by the 3rd

respondent on the ground that she is not a dependent family members because she is a married women. Subsequently, the petitioner made another application by clarifying the objection raised by the 3rd respondent on 06/06/2022 citing the Memo 1GAD(Ser.A) No.17897/SER-A/2000-Department Dated 20/04/2000 issued by the Government. Even though the petitioner submitted all relevant certificates i.e., Family Members Certificate issued by the Tahsildar,Koilakuntla Mandal, Dated 27/04/2022, which clearly disclosed that she is the family member of Metal Devadhanam, who is none-other than her father, the respondents have not considered her case for compassionate appointment. Hence, the present writ petition.

3. The counter affidavit has been filed by the respondents No.1 and 2. While denying the allegations made in the petition, inter alia, stated that, the representation of the petitioner was rejected not on the ground of condition that she is the sister of the deceased Government Servant but due to the fact that her husband is doing business and that her family is being supported by the earnings derived out of the business. There is a clear distinction for rejection of application not becoming the married sister and her husband involved in the business and family is in possession of considerable earnings out of the sales in the business. The turnovers scored in the business would disclose that the family is receiving the sufficient earnings to run the family. In view of the above fact, the petitioner's representation was rejected through this Office endorsement dated: 06.06.2022.

It is further stated in that counter affidavit that the Government Orders in G.O.Ms.No.687 GAD (Ser.A)Dept., dated 03.10.1997 and G.O.Ms.No.612 GAD (Ser.A) Dept., dated 30.10.1977 have not been excluded the earning husband of the Petitioner who is already engaged in the business and becoming the family member of the Petitioner and also receiving the considerable earnings which could meet to run the family smoothly. It is further stated in the counter that the representation of the petitioner was rejected on the ground of fact that her husband engaged in the business and happens to be in a position of earning to meet the family requirements but not rejected on the ground that she was married. It is stated that there is clear distinction for the words 'dependent' and 'married women'. It is stated that for the purpose of compassionate appointments, the married daughter is not dependent to the family of her father/mother. It is however, stated that the Government with a view to provide succour to the family has allowed the married daughter, though not dependent to their family, has declared eligible to claim compassionate appointment subject to satisfying other conditions i.e., a married daughter is dependent on her father/ mother if she is living with her father/mother when her husband deserts her or disappears for years together or dies. In all such cases the husband should not have left any property or income to his wife and the married daughter is solely dependent on the support provided by her father/mother and is an un-employee. In this connection, in this case, is that family of the job seeker cannot be a earning member and family not to receive any income from the side of her husband

vide Govt Memo No.406/10/A/Admn, 11/2004, Fin. (Admn.II) dated 20.03.2004. In view of the above, as there are no grounds in the present writ petition, the same is liable to be dismissed.

4. Heard Sri J. Ravi Kumar, learned counsel appearing for the petitioner and learned Government Pleader for Services-I appearing for the respondents.

5. On hearing, learned counsel for the petitioner while reiterating the averments made in the petition, submits that, in similar circumstances, this Hon'ble Court in case of **Smt. H.Sita Ratnam V/s State of A...P.**¹ held that the object of compassionate appointments is a social security measure to support the family of the deceased government servant who dies in harness. The aim and object of the policy for compassionate appointment is to provide financial support to the family of the deceased employee who left the dependents in distress and penury. He submits that the concept of the compassionate appointment intended alleviate the distress of the family and it is for such purpose appointment are permissible and provided even in the rules and regulations and any rigid approach or too technical objection may defeat the very object of the scheme. He submits that, in the present case, the petitioner herself and her elder sister-deceased employee are only children of her parents and after demise of her elder sister, there is no earning member in her family to look after her old parents. Therefore, learned counsel for the petitioner requests this Court to pass appropriate orders.

¹WP No.35294/2014 dated 19.3.2021

6. *Per contra*, learned Government Pleader while denying the allegations made by the petitioner, argued that, the petitioner was first made an application on 12.01.2022 enclosing a no earning member certificate and family members' certificate issued by the Tahsildar, Koilkuntla, wherein the family members are father and mother of deceased Government Servant. It is submitted that as her name not found place either in the family member certificate or No Earning Member Certificate, her representation dated: 12.01.2022 not entertained informing that she is not the part of the family of the deceased Government Servant. He further submits that, in the representations dated 12.01.2022 and 14.03.2022 submitted by the petitioner, she did not expressly stated that she was married and her husband engaged in the business under the name and style of M/s Fashion In, Proddatur and thereby concealed the fact in order to get the appointment under compassionate grounds. Therefore, the said representation was rejected on the ground that her husband engaged in the business and happens to be in a position of earning to meet the family requirements but not rejected on the ground that she was married.

7. Perused the material on record.

8. On a perusal of the material, it is observed that, the petitioner's sister while working as Office Subordinate in Commercial Tax Department, Kurnool, died due to brain hemorrhage. Now the petitioner filed the present writ petition to consider her representation for appointment on compassionate grounds in place of her sister.

9. The object of compassionate appointment is a social security measure to support the family of the deceased government servant, who dies in harness. The aim and object of the policy for compassionate appointment is to provide financial support to the family of the deceased employee, who left the dependents in distress and penury. The core aim of the object of providing compassionate appointment is to relieve the family from financial sufferings being faced for the sudden demise of the Bread Winner of the family. The sufferings being faced by the dependents of the deceased employee for sudden demise of the Bread Winner could be solved for some extent by providing compassionate appointment to the one of the dependents of the deceased employee to look after the family. While the State Government and its instrumentalities implementing the scheme of compassionate appointments to help the destitute families of the deceased employees, but incorporating such clause in eligibility criteria discriminating the daughters, who are being married is appears to be illegal and unjust.

10. It is appropriate to extract the relevant paragraphs of G.O.Ms.No.612, General Administration (Services-A) Department, dated 30.10.1991, Memo No.17897/Ser.A/2000- 1, General Administration (Ser.A) Department, dated 20.04.2000 and Memo No.406/10/A.II/Admn.II/2004, Finance (Admn.II) Department, dated 20.03.2004, for better adjudication of the matter.

(1) G.O.Ms.No.612, General Administration (Services-A) Department, dated 30.10.1991 at para No.2 (i): The younger brother/sister of the deceased Government Servant who remained unmarried can be considered for appointment under the scheme, provided there is no other earning member in the family. The cases which came up for consideration earlier need not be reopened.

(2) Memo No.17897/Ser.A/2000-1, General Administration (Ser.A) Department, dated 20.04.2000 at para No.4: It is hereby clarified that the words "remained unmarried" occurring in para 2(1) of G.O. second cited are applicable to the deceased Government employee only and therefore only in cases where the deceased Government employee happensto have remained unmarried, then only the youngerbrother/sister of such deceased Government employee can be considered for compassionate appointment provided there is no other earning member in the family as per the orders issued at para 2 (1) of the G.O. second cited.

(3) Memo No.406/10/A.I/Admn.II/2004, Finance (Admn.II) Department, dated 20.03.2004 at paras 1 and 2:

The attention of the Director of State Audit, A.P., Hyderabad is invited to the reference cited and he is informed that a married daughter can be given Compassionate Appointment under the following circumstances:

- (i) There should be no younger or older unmarried dependents in the family and the spouse shouldbe unwilling of ineligible for appointment.
- (ii) The married daughter should be dependent on her father/mother who was a Government Employee/ deceased Government Employee.
- (iii) There is no objection to consider one of the married daughters if there are more than one married daughters as long as the condition No.1 & 2 are fulfilled.

11. It is to be noted that, there is clear distinction for the words 'dependent' and 'married women'. For the purpose of compassionate appointments, the married daughter is not dependent to the family of her father/mother. However, the Government with a view to provide succour to the family has allowed the married daughter, though not dependent to their family, has declared eligible to claim compassionate appointment subject to satisfying other conditions i.e., a married daughter is dependent on her father/ mother if she is living with her father/mother when her husband deserts her or disappears for years together or dies. In all such cases the husband should not have left any property or income to his wife and the married daughter is solely dependent on the support provided by her father/mother and is an un-employee.

12. In a case of **Umesh Kumar Nagpal vs State of Haryana**², wherein the Hon'ble Apex Court held that *the appointment in public services on compassionate ground has been carved out as an exception, in the interests of justice, to the general rule that the appointment in the public services should be made strictly on the basis of open invitation of applications and merit and no other mode of appointment nor any other consideration is permissible. A compassionate appointment is made out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet and the while object of granting such appointment is to enable the family to tide over the sudden crisis.*

13. In similar circumstances, this Court has also laid down that an appointment on compassionate ground has to be given in accordance with the relevant rules and guidelines that have been framed by the concerned authority and no person can claim appointment on compassionate grounds in disregard of such rule or such guidelines.

14. In the present, as the petitioner was married and her husband engaged in the business and having sufficient means. Moreover, the parents of the deceased employee are not dependants on their married daughter i.e., the petitioner herein. So, in view of the above circumstances, this Court is of the view that the petitioner is not entitled for the relief of compassionate appointment.

²1994 AIR SCW 2305

15. Therefore, this Court found no merit in the instant writ petition and devoid of merits and the same is liable to be dismissed.

16. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. As a sequel, all the pending miscellaneous applications shall stand closed.

DR. K. MANMADHA RAO, J.

Date : 28-03-2025

Gvl

HON'BLE DR. JUSTICE K. MANMADHA RAO

WRIT PETITON No.25156 of 2022

Date :28.03.2025

Gvl