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APHC010456562021



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

[3330]

WEDNESDAY, THE 15th DAY OF JULY 2026

**PRESENT
THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO**

WRIT PETITION No.27755 of 2021

Between:

1.S LAKSHMINARAYANA REDDY, S/O LATE S. NARAYANA REDDY, AGED 48 YEARS, OCC- OFFICE SUBORDINATE, R/O 12-407, SAI NAGAR, ANANTHAPURAMU TOWN AND ANANTHAPURAM DISTRICT.

...PETITIONER

AND

- 1.THE STATE OF ANDHRA PRADESH, REP BY IT'S SECRETARY, SCHOOL EDUCATION DEPARTMENT, VELAGAPUDI GUNTUR DISTRICT.
- 2.THE COMMISSIONER, SCHOOL EDUCATION OF ANDHRA PRADESH, ANJANEYA TOWERS, IBRAHIMPATNAM, VIJAYAWADA.
- 3.THE REGIONAL JOINT DIRECTOR OF SCHOOL EDUCATION, KADAPA
- 4.THE DISTRICT EDUCATIONAL OFFICER, ANANTHAPURAMU.
- 5.THE DISTRICT COLLECTOR, COLLECTORATE, ANANTHAPURAMU.
- 6.THE CORRESPONDENT, REPRESENTING SRI SAI BABA NATIONAL JUNIOR COLLEGE, ANANTHAPURAMU.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ more in the nature of Writ of Mandamus or any other writ order or direction, to declare the action of

the respondents particularly the respondent No4 is illegal arbitrary and contrary to the GO.Ms.Nos.612 GAD dt.30.10.1991 and 30 Education (Services-IV) Department dt.01.02.1994 consequently direct the respondents to fix my date of appointment from the date of proposals forwarded by the 6th respondent to the 4th respondent i.e., 12.08.2004 with all consequential benefits including seniority.

Counsel for the Petitioner:

1.K SREEDHAR MURTHY

Counsel for the Respondent(S):

- 1.GP FOR SCHOOL EDUCATION
- 2.GP FOR SERVICES I
- 3.V V PRABHAKARA RAO

The Court made the following:

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO**WRIT PETITION No.27755 of 2021****ORDER:**

The present Writ Petition is filed under Article 226 of the Constitution of India seeking the following relief:

“...issue a Writ more in the nature of Writ of Mandamus or any other writ order or direction, to declare the action of the respondents particularly the respondent No.4 is illegal, arbitrary and contrary to the G.O.Ms.No.612 GAD dated 30.10.1991 and 30 Education (Services-IV) Department dated 01.02.1994 consequently direct the respondents to fix my date of appointment from the date of proposals forwarded by the 6th respondent to the 4th respondent i.e., 12.08.2004 with all consequential benefits including seniority and pass such other order or orders”

2. The petitioner herein made an application on 12.08.2004 to appoint him on compassionate grounds, in pursuance or following G.O.Ms.No.612 GAD dated 30.10.1991, on the death of his father who worked as Lab Assistant in a sanctioned aided post and who died in harness on 08.07.2004. The Correspondent of Sri Sai Baba National Aided Junior College (High School Section), Ananthapuram has submitted proposals on 12.08.2004 regarding the petitioner's

compassionate appointment on the death of his father to the District Educational Officer. The District Educational Officer, vide proceedings dated 04.09.2004, has instructed to visit the Sri Sai Baba National Aided Junior College, verify the records, and submit detailed remarks. Accordingly, the Deputy Educational Officer vide proceedings dated 29.01.2005 has submitted proposals for recommending compassionate appointment to the petitioner with a request to submit the same to the higher authorities. The District Educational Officer has forwarded the proposals along with the recommendation of the Deputy Educational Officer to the Regional Joint Director of School Education to sanction necessary permission for the appointment. The Regional Joint Director has submitted the proposals to the Commissioner and the Commissioner of Education, in turn, submitted the application to the Government for appointment orders on compassionate grounds for the petitioner.

3. However, the Government through memo dated 18.10.2006 rejected the said proposals pursuant to the Government Memo No.12080/COSE/A2/ 2004-4 dated 20.10.2004 stating that the case did not merit consideration, and returned the proposals to the Regional

Joint Director of School Education, who then redirected them to the District Educational Officer in Ananthapuramu.

4. On the culmination of the facts, the petitioner's appointment on compassionate grounds was not considered due to the ban imposed by the government and the G.O.Ms.No.30 dated 01.02.1994 only provides compassionate appointments in ZP/MPP/Government Offices (not aided institutions). Petitioner's father worked in aided institution. The aided schools have filed W.P.No.9503 of 2005 challenging the memo dated 20.10.2004 and the same was struck down by a learned Single Judge of the common High Court, vide order dated 30.07.2013.

5. While the said W.P.No.9503 of 2005 was pending before the common High Court at Hyderabad, the Government issued G.O.Ms.No.113 dated 06.10.2009 taking decision to revive the earlier memo dated 20.10.2004 and to grant permission to the employees who are working in the aided institutions.

6. The petitioner contends that he also filed W.P.No.32404 of 2010, seeking appointment on compassionate grounds, which remains pending according to the High Court website as on date of considering the present Writ Petition. However, the petitioner was subsequently

appointed as Office Subordinate in the 6th respondent institution, vide order dated 03.12.2020, basing upon orders issued by the 4th respondent, vide Rc.No.5612/A7/2020 dated 02.12.2020.

7. Now the present Writ Petition is filed stating that if the petitioner's application has been considered promptly in the year 2004, he would be eligible to the regular pension scheme (old pension scheme) and due to the laxity and lethargic attitude of the respondents in this regard, the respondents cannot deny case of the petitioner, his pension and associated benefits due to their own lethargy and administrative negligence, nor can they rely on Rule 2 of Act 9 of 2000 to justify such delays of the respondent authorities. Furthermore, Rule 33(a) of the A.P. State Subordinate Rules is inapplicable in this instance, and the Division Bench of the common High Court in W.P.No.33936 of 2011 and batch held that the laxity and lethargy on the part of the State and its instrumentalities in this regard cannot be permitted to be taken an advantage by them to the detriment of the employees who would have been benefited. Hence, prayed to direct the respondents to grant notional seniority and further to fix pay including seniority fixing the date of appointment from the date of proposals forwarded by the 6th respondent to the 4th respondent i.e., dated 12.08.2004.

8. Learned counsel for the petitioner relied on the judgment of the common High Court in ***A.Ksheera Sagar Vs. A.P.Dairy Co-op. Federation Ltd. and another*** reported in (1997) 3 ALT 751, wherein a Division Bench of the common High Court directed the respondents therein to consider the case of the petitioner under the scheme prevailing on the date, he applied for compassionate appointment.

9. The respondents have filed a counter-affidavit, categorically denying any lapses on their part. While acknowledging that the petitioner's application for compassionate appointment was received, they contend that it was rejected due to a government-imposed ban. Furthermore, pursuant to G.O. Ms. No. 30 dated 01.02.1994, the children of employees working in aided institutions are ineligible for compassionate appointment; therefore, they pray for the dismissal of the writ petition.

10. The issue for consideration is, whether there were any lapses by the respondents in the appointment of the petitioner on compassionate grounds, and whether the petitioner is entitled to retrospective appointment effective from the date of the original application, 12.08.2004, rather than 03.12.2020, for the purpose of regular pension

scheme (old pension scheme) and there is lethargy and administrative negligence on the part of the respondents.

11. The father of the writ petitioner is an employee in an aided institution, died in harness on 08.07.2004. Writ petitioner made an application on 08.07.2004 to appoint him on compassionate grounds. The application which was forwarded to District Educational Officer, on the enquiry report submitted by the Dy. Educational Officer, recommended to the Regional Joint Director for permission to appoint the petitioner on compassionate grounds. The government, vide memo dated 18.10.2006, has rejected the said proposals pursuant to the Government Memo No.12080/COSE/A2/ 2004-4 dated 20.10.2004. The same was communicated to the correspondent through District Educational Officer, as there is total ban on compassionate appointments. The time gap making application and rejection is hardly one year.

11.1. It is pertinent to state that G.O.Ms.No.30 dated 01.02.1994 was in existence at relevant point of time. As per the said G.O., no children of the deceased employee who are working in the aided institutions are entitled to be appointed on compassionate grounds in the aided institutions.

11.2. The government issued a G.O.Ms.No.113 dated 06.10.2009 taking decision to revive the earlier memo dated 20.10.2004 and to grant permission to the employees who are working in the aided institution allowing compassionate appointments in aided schools, however, the incumbent cannot be appointed until he met the eligibility criteria.

11.3. Aided institutions have challenged the memo dated 20.10.2004 before the common High Court at Hyderabad in W.P.No.9503 of 2005. The writ petition was disposed of and allowed on 30.07.2013.

11.4. It is not out of place to state that the Writ Petition No.32404 of 2010 filed seeking appointment on compassionate grounds was still pending as on today until the consideration of the present writ petition. This indicates that there are lapses on the part of the writ petitioner.

11.5. The petitioner herein made another representation on 20.03.2019 after lapse of 15 years to consider his case for compassionate appointment to the earlier application dated 12.08.2004. Basing on the said representation, the respondents have issued appointment orders vide Rc.No.5612/A7/2020 dated 02.12.2020 as an office subordinate.

11.6. The observation in the proceedings dated 12.11.2005 that disciplinary action should be taken against an erring official. No lapses on the part of the respondents as they have forwarded the application of the petitioner to the concerned officer in hierarchy and the same was rejected on two grounds as there is ban on appointment on compassionate grounds and as per G.O.Ms.No.30 dated 01.02.1994, children who are working in aided institutions are not eligible for compassionate appointment which are existence prior to the death of the employee who died in harness. On the said ground, the petitioner cannot ponder to state that there are lapses on the part of the respondents.

11.7. Though the relief prayed to direct the respondents to grant notional seniority and further to fix pay including seniority fixing the date of appointment from the date of proposals forwarded by the 6th respondent to the 4th respondent i.e., dated 12.08.2004. And as discussed above, there is no negligence on the part of the respondents. There cannot be a retrospective appointment without joining in the said post.

12. The judgment of common High Court in ***A.Ksheera Sagar Vs. A.P.Dairy Co-op. Federation Ltd. and another*** reported in (1997) 3

ALT 751 (referred supra) is not applicable to the present facts of the case. In the said case, a scheme was evolved to give compassionate appointment to a dependent of an employee, who died in harness, compassionate appointment, which scheme was sought to be altered with retrospective effect and made applicable by the respondent-Society to all cases of employees who died, but the petitioner were not given compassionate appointment and their applications were pending from 01.09.1994. Hence, the Division Bench directed to consider the case of the petitioner therein under the scheme prevailing on the date he applied for compassionate appointment and not under the scheme as envisaged under the resolution of the Board of the respondent-employer dated 26.10.1995 and/or 19.02.1996.

13. In the case of ***Abhishek Kumar Vs. State Of Haryana And Ors*** reported in (2006) 12 SCC 44 the Apex Court: Head note B reads as under: Compassionate appointment - Deceased employee's dependent Application may under rules existing at employee's death (2001)-subsequent rules (2003 Haryana Compassionate Assistance to the Dependents of deceased Government Employee Rules) should not be applied retrospectively. Case must considered on rules in force at the time of application - Appellant entitled to appointment under 2001

rules. The Apex Court in para 5 of the judgement noted that *“When a Statewise list is prepared, it does not lie in the mouth of a authority in-charge, be it a District Magistrate or any other officer, to disobey the order passed by a higher Authority.”*

14. In the present case, the authorities have recommended for compassionate appointment as there is ban on compassionate appointment in the year 2004, the petitioner was not given compassionate appointment. The G.O.Ms.No.30 specifically says that there cannot be any compassionate appointments in aided school. And the said G.O.Ms.No.30 was modified vide G.O.Ms.No.113 dated 06.10.2009 applying to aided schools. The above judgment of the Apex Court is not applicable to the facts of the case.

15. The respondents have not extracted any work from the petitioner to seek a direction from this court to consider his case from the date of filing of application and the respondent haven failed to dispose of the writ petition filed seeking to appointment his on compassionate grounds. According to this court that there are no lapses on the part of the respondents to seek a direction or mandamus to appoint the petitioner on compassionate grounds from the date of filing of the application i.e.,

12.08.2004 as there is ban on compassionate appointment more over there is rider in G.O. Ms.No.30 dated 01.02.1994. The government has revised the compassionate appointment vide G.O.Ms.No.113 dated 06.10.2009 and the petitioner and the petitioner has not pursued his application nor he got disposed of his own writ petition seeking compassionate appointment.

16. Rule 13 of the A.P.Revised Pension Rules, 1980, reads as follows:

"Rule 13: Commencement of qualifying service: Subject to the provisions of these rules, qualifying service of a government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity."

17. The petitioner herein was appointed on 03.12.2020. In view of the above said rule, the petitioner cannot plead to appoint him retrospectively from the date of making application to appoint him on compassionate grounds.

18. Hence, for the foregoing reasons given, this Court holds that there are no lapses or laxity on the part of the respondents.

19. However, the authorities are directed to consider the request of the petitioner to be appointed retrospectively from the year 2009 where the government has revised the compassionate appointment vide G.O.Ms.No.113 dated 06.10.2009 solely to allow the petitioner to claim to pension and pension related benefits taking sympathetic and lenient view to meet the ends of justice, otherwise the very appointment granted to the petitioner will lose its significance.

20. With above direction the Writ Petition is stands disposed of. However there shall be no order as to costs.

As a sequel thereto, Interlocutory Applications pending, if any, shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 15.07.2026

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Whether the order is:

Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No / Non-reportable Yes/No

THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No.27755 of 2021

Date: 15.07.2021

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