

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT PETITION No.27500 of 2023

Between:

SALLA DIVYA VEERA BRAHMAM, S/O LATE S. VEERANNA, AGED ABOUT 22 YEARS, UNEMPLOYEE, R/O VEERA BRAHMENDRA NAGAR, B.MATTAM MANDAL, Y.S.R. KADAPA DISTRICT, ANDHRA PRADESH.

...PETITIONER

AND

STATE OF ANDHRA PRADESH, REP. BY ITS SPECIAL CHIEF SECRETARY TO GOVERNMENT, HEALTH, MEDICAL AND FAMILY WELFARE DEPARTMENT, SECRETARIAT BUILDING, AMARAVATHI, GUNTUR DISTRICT AND 4 OTHERS.

...RESPONDENTS.

DATE OF ORDER PRONOUNCED : **28.02.2025**

SUBMITTED FOR APPROVAL:

HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

1. Whether Reporters of Local Newspapers may be allowed to see the order? : Yes/No
2. Whether the copy of order may be marked to Law Reporters/Journals? : Yes/No
3. Whether His Lordship wish to see the fair copy of the order? : Yes/No

JUSTICE SUBBA REDDY SATTI

*** HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**

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...RESPONDENTS.

! Counsel for Petitioners : Sri Dasari S.V.V.S.V.Prasad

^ Counsel for Respondents : Sri Sarath, AGP for Services

< Gist:

> Head Note:

? Cases referred:

- 1) (1978) 4 SCC 47
- 2) (1987) 4 SCC 203
- 3) (1985) 4 SCC 71
- 4) (1981) 2 SCC 238
- 5) (2021) 6 SCC 512
- 6) (2020) 14 SCC 126

This Court made the following:

APHC010532392023



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

[3331]

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

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 27500/2023

Between:

Salla Divya Veera Brahmam

...PETITIONER

AND

The State Of Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.DASARI S V V S V PRASAD

Counsel for the Respondent(S):

1.GP FOR SERVICES III

The Court made the following:

ORDER

The above Writ Petition is filed to declare the action of the respondents in not extending the benefit of the Government Memo No.23232/R&R-A2/2015-1, dated 26.08.2015 for inclusion of petitioner's name, being legal heir in the place of his father's name at S.No.69, while extending the similar benefit to others vide Government Memo No.ICD01/1238/2019-RR (C.No.1036703), dated 28.11.2019 and

providing employment as per G.O.Ms.No.98 dated 15.04.1986, as illegal and arbitrary.

2. Averments in the affidavit, in brief, are that the ancestral property of the petitioner was acquired for the construction of Sri Pothuluri Veera Brahmendra Swamy Reservoir of Telugu Ganga Project. The Land Acquisition Officer passed an award and the petitioner's family was displaced and relocated. The Government issued G.O.Ms.No.98 Irrigation (Proj. Wing) Department dated 15.04.1986 for rehabilitation and providing employment to the displaced person or their dependents. The then District Selection Committee scrutinized the particulars of the petitioner's father and incorporated his name in the list dated 24.10.2016 at Sl.No.69. The petitioner's father died on 19.04.2018 in a road accident. Thereafter the petitioner as well as his mother made representation to include the petitioner's name in the place of his father's name at S.No.69 and to provide any suitable employment. The respondents, in fact, considered the similar requests of legal heirs in respect of other persons, however the same was not extended to the petitioner. Hence, the writ petition.

3. a) A counter affidavit was filed on behalf of 4th respondent. It was contended, *inter alia*, that the name of the petitioner's father S.Veeranna, S/o Bala Veeraiah was included in the seniority list of SPVBR of Telugu Ganga Project at S.No.69 based on the approval of the District Selection Committee on 25.08.2010 and the petitioner's father was not provided any employment. It was pleaded that the representation of the petitioner dated 11.12.2018 was not received.

b) As per Para 4 (ii) of G.O.Ms.No.98 dated 15.04.1986, the candidates eligible for appointment under the scheme shall be displaced

persons or his/her son, daughter or spouse, there being no other earning member in the family.

c) The Government issued G.O.Ms.No.45 Irrigation & C.A.D. (PW:R&R-A2) Department dated 04.07.2012, wherein it was mentioned that all the eligible displaced persons or their spouse/son/daughter as per the provision already available at Para No.1 of G.O.Ms.No.98 Irrigation (Proj. Wing) Department dated 15.04.1986, whose applications were received within the specified time limit but could not be provided employment so far, due to administrative reasons, may be considered for employment as per seniority subject to fulfilling all other eligibility criteria prescribed for that category of job. This benefit shall not be extended to those displaced families who have already got employment under this scheme.

d) The Government issued Memo No.3750/R&R/A2/2015-1, dated 16.05.2015 rejecting the claim of inclusion of the name of the spouse K.Sireesha, in the place of her deceased husband (being daughter-in-law of original awardee). Later as per the orders, the Government issued Memo No.23232/R&R-A2/2015-1, dated 26.08.2015, and accorded permission on humanitarian grounds for the inclusion of her name in the seniority list.

e) The Government issued Memo No.ICDOI/1238/2019-RR (C.No.1036703) dated 28.11.2019 and accorded permission to substitute/include 10 numbers of displaced persons in the existing seniority list. Out of 10 numbers, all 9 displaced persons are sons/daughters of original awardees and the 10th person is the daughter-in-law of original awardee, whose spouse was deceased.

f) The Government on humanitarian grounds accorded permission to the daughters-in-law of original awardees for substitution/inclusion of their names in the seniority list in the event of the death of a spouse, but not to the grandson of the original awardee. The inclusion of the petitioner's name, being the grandson of the original awardee is not feasible in terms of Para No.4 (ii) of G.O.Ms.No.98 dated 15.04.1986 and eventually prayed to dismiss the writ petition.

4. Heard Sri T.Harsha Sai Pavan, learned counsel representing Sri Dasari S.V.V.S.V.Prasad, learned counsel for petitioner and Sri Sarath, learned Assistant Government Pleader for Services for respondents.

5. Learned counsel for the petitioner as well as the learned Assistant Government Pleader for Services for respondents, reiterated the contentions as per the averments in the affidavit and counter affidavit respectively.

CONSIDERATION:

6. The Government issued G.O.Ms.No.676, Irrigation & Power Department, dated 17.11.1978 indicating preference in recruitment to posts equivalent to L.D.C. (now Junior Assistant), Typists and cadres below, in the projects, should be given to the eligible displaced persons or their dependants i.e. son/daughter/spouse, whose names are furnished by the respective Collectors. The Collectors were requested to draw a list of those eligible displaced persons for the above jobs in the Projects and forward it to the Project authorities for making appointments to the categories indicated above by following the Rule of Reservation. It was further directed to send a copy of the list to the employment exchange covering the project area.

7. Be that as if may, the then Chief Engineer, SRSP by letter dated 05.08.1983 and brought to the notice of the Government that the candidates appointed in the projects as per G.O.Ms.No.676 dated 17.11.1978 have to be replaced by the regular candidates allotted by the Andhra Pradesh Public Service Commission (APPSC).

8. Considering the scenario, after a careful examination of proposals, in consultation with APPSC, the Government issued G.O.Ms.No.98 dated 15.04.1986 in supersession of G.O.Ms.No.676 dated 17.11.1978. It was ordered that –

- (i) not more than 50% of vacancies in the categories equivalent to Junior Assistants/Typists and cadres below arising in Major and Medium Irrigation projects shall be filled by the displaced persons or their dependants of respective project duly following rule of reservation for various categories i.e. SC/ST/BC/Ex-servicemen/Physically Handicapped/Meritorious Sportsmen etc.
- (ii) The candidates eligible for appointment under this scheme shall be displaced persons or his/her son, daughter or spouse, there being no other earning member in the family.
- (iii) Applications for appointment from the eligible candidates shall be made to the District Collector concerned within a period of one year from the date of actual displacement of the family. Preference shall be given with reference to the date of displacement and to those applicants whose house and lands are acquired against those whose lands or house only is acquired. The District Collector is directed to draw up the list of such applications and forward the same to the Project authorities for appointment.
- (iv) All the appointments made in this scheme are temporary. However, the services of these employees will be regularized in

the categories of posts, whose pay is equal or less than that of Junior Assistants.

- (v) The temporary appointment of the persons employed under this scheme can be considered for regular appointment without subjecting them to normal process of recruitment rules, provided they satisfy other conditions of recruitment prescribed in the rules, such as age and qualifications etc. However, a formal notification may be made to the employment exchange and after filling up the vacancy, the appointing authority will furnish all relevant particulars of the candidates, the employment exchange covering the area.
- (vi) The regular appointment made under this scheme should be kept outside the purpose of A.P. Public Service Commission.

9. The Government also issued G.O.Ms.No.45 dated 04.07.2012 clarifying certain aspects.

10. It is an undisputed fact that the name of the petitioner's father was included at S.No.69 based on approval of the District Selection Committee dated 25.08.2010. It is also an undisputed fact that the petitioner's father was not provided with any employment and he died on 19.04.2018. No doubt, Para 4 (ii) of G.O.Ms.No.98 dated 15.04.1986 prescribes that the candidates eligible for appointment under the scheme shall be displaced a person or his/her son, daughter or spouse, there being no other earning member in the family. It is also a fact that the Government issued Memo No.4346/R&R-A2/2011-2 dated 11.07.2012 to include the name of a grandchild of the awardee on the ground that the father of the person whose name was included was not provided with any employment. In fact, one P.Lavanyachari, S/o P.Upendrachari, got employment under the displaced person's quota on the request of his

father, as Junior Assistant, since his father crossed 52 years of age and suffering from ill-health *vide* Government Memo No.19602/R&R-A2/2013-1, dated 12.09.2013.

11. In the case at hand, the name of the petitioner's father was shown at S.No.69 as per the approval of the District Selection Committee dated 25.08.2010 and the father of the petitioner died in April, 2018. Thus, it is apparent that the petitioner's father was not provided with any employment under the scheme though he was eligible before his death.

12. As seen from the language employed in G.O.Ms.No.98 dated 15.04.1986 and G.O.Ms.No.676 dated 17.11.1978, they were issued, under Art 162 of the Constitution of India, to provide employment, being a welfare measure, apart from paying compensation, to the family members of the displaced family. Those government orders must be treated as a social welfare policy. The object of the Government in issuing G.O.Ms.No.98 dated 15.04.1986 should not be undermined or given go-bye. G.O.Ms.No.98 dated 15.04.1986 was issued in supersession of G.O.Ms.No.676 dated 17.11.1978, in pursuance of a letter addressed by the then Chief Engineer, who, in turn, brought to the notice of the Government that the candidates appointed in the projects have to be replaced by the regular candidates allotted by the APPSC. In that context, the Government examined the factual scenario and provided jobs to the displaced persons or their dependants, on a **regular basis**, and further kept such an appointment out of the purview of APPSC, by reserving a certain percentage of posts in the projects for displaced persons. The G.O.Ms.No.98 reserves not more than 50% of vacancies.

13. Thus, if one has to understand or appreciate the purpose or intention of the Government, the language used in Clause (ii) that the candidates eligible for appointment under this scheme shall be displaced persons or his/her son, daughter or spouse, there being no other earning member in the family, should be construed as son includes grandson, daughter included granddaughter and spouse includes daughter-in-law. Any other interpretation may defeat the very object or purpose of issuing the said Government orders.

14. It is a settled law that while construing welfare legislature, liberal construction should be adopted so that the purpose of legislation may be allowed to be achieved, rather than frustrated or stultified.

15. In **Moti Ram Vs. State of M.P.**¹, the Hon'ble Apex Court held thus:

“23. A semantic smog overlays the provisions of bail in the Code and prisoners' rights, when cast in ambiguous language become precarious. Where doubts arise the Gandhian talisman becomes a tool of interpretation:

“Whenever you are in doubt. . . apply the following test. Recall the face of the poorest and the weakest man whom you may have seen, and ask yourself, if the step you contemplate is going to be of any use to him.”
Law, at the service of life, must respond interpretatively to raw realities and make for liberties.”

16. The Hon'ble Apex Court in **International Ore & Fertilizers (India) (P) Ltd. Vs. ESI Corpn.**², Held thus:

4.We agree with the decision of the High Court that while construing a welfare legislation like the Act and the notification issued

¹ (1978) 4 SCC 47

² (1987) 4 SCC 203

thereunder a liberal construction should be placed on their provisions so that the purpose of the legislation may be allowed to be achieved rather than frustrated or stultified.

17. In **Workmen Vs. American Express International Banking Corpn.**³, the Hon'ble Apex Court held thus:

“4. The principles of statutory construction are well settled. Words occurring in statutes of liberal import such as social welfare legislation and human rights' legislation are not to be put in Procrustean beds or shrunk to Liliputian dimensions. In construing these legislations the imposture of literal construction must be avoided and the prodigality of its misapplication must be recognised and reduced. Judges ought to be more concerned with the “colour”, the “content” and the “context” of such statutes (we have borrowed the words from Lord Wilberforce's opinion in *Prenn v. Simmonds* [(1971) 3 All ER 237]). In the same opinion Lord Wilberforce pointed out that law is not to be left behind in some island of literal interpretation but is to enquire beyond the language, unisolated from the matrix of facts in which they are set; the law is not to be interpreted purely on internal linguistic considerations. In one of the cases cited before us, that is, *Surendra Kumar Verma v. Central Government Industrial Tribunal-cum-Labour Court* [(1980) 4 SCC 443 : 1981 SCC (L&S) 16 : (1981) 1 SCR 789] , we had occasion to say,

“Semantic luxuries are misplaced in the interpretation of ‘bread and butter’ statutes. Welfare statutes must, of necessity, receive a broad interpretation. Where legislation is designed to give relief against certain kinds of mischief, the Court is not to make inroads by making etymological excursions.”

18. In **LalappaLingappa Vs. Laxmi Vishnu Textile Mills Ltd.**⁴, the Hon'ble Apex Court held thus:

³ (1985) 4 SCC 71

⁴ (1981) 2 SCC 238

“13. In construing a social welfare legislation, the court should adopt a beneficent rule of construction; if a section is capable of two constructions, that construction should be preferred which fulfils the policy of the Act, and is more beneficial to the persons in whose interest the Act has been passed. When, however, the language is plain and unambiguous, as here, we must give effect to it whatever may be the consequences, for, in that case, the words of the statute speak the intention of the legislature. When the language is explicit, its consequences are for the legislature and not for the courts to consider. The argument of inconvenience and hardship is a dangerous one and is only admissible in construction where the meaning of the statute is obscure and there are two methods of construction. In their anxiety to advance beneficent purpose of legislation, the courts must not yield to the temptation of seeking ambiguity when there is none. [Craies on Statutes, 6th Edn., pp. 84-91]”

19. In **Brahampal Vs. National Insurance Co.**⁵, the Hon’ble Apex Court held thus:

“7. The interpretation of a beneficial legislation must be remedial and must be in furtherance with the purpose which the statute seeks to serve. The aforesaid view has been reiterated by this Court on multiple occasions wherein this Court has highlighted the importance acknowledging legislative intention while interpreting the provisions of the statute. This Court in *Bombay Anand Bhavan Restaurant v. ESI Corpn.* [Bombay Anand Bhavan Restaurant v. ESI Corpn., (2009) 9 SCC 61 : (2009) 2 SCC (L&S) 573] while interpreting the provisions of the Employees' State Insurance Act held that it being a beneficial legislation should receive a liberal construction so as to promote its objectives. This Court held therein: (SCC p. 66, para 20)

“20. The Employees' State Insurance Act is a beneficial legislation. The main purpose of the enactment as the Preamble suggests, is to provide for

⁵ (2021) 6 SCC 512

certain benefits to employees of a factory in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto. The Employees' State Insurance Act is a social security legislation and the canons of interpreting a social legislation are different from the canons of interpretation of taxation law. The courts must not countenance any subterfuge which would defeat the provisions of social legislation and the courts must even, if necessary, strain the language of the Act in order to achieve the purpose which the legislature had in placing this legislation on the statute book. The Act, therefore, must receive a liberal construction so as to promote its objects.”

20. **K.H. Nazar Vs. Mathew K. Jacob**⁶, the Hon’ble Apex Court held thus:

“11. Provisions of a beneficial legislation have to be construed with a purpose-oriented approach. [Kerala Fishermen's Welfare Fund Board v. Fancy Food, (1995) 4 SCC 341] The Act should receive a liberal construction to promote its objects. [Bombay Anand Bhavan Restaurant v. ESI Corpn., (2009) 9 SCC 61 : (2009) 2 SCC (L&S) 573 and Union of India v. Prabhakaran Vijaya Kumar, (2008) 9 SCC 527 : (2008) 3 SCC (Cri) 813] Also, literal construction of the provisions of a beneficial legislation has to be avoided. It is the court's duty to discern the intention of the legislature in making the law. Once such an intention is ascertained, the statute should receive a purposeful or functional interpretation [Bharat Singh v. New Delhi Tuberculosis Centre, (1986) 2 SCC 614 : 1986 SCC (L&S) 335].”

21. This Court is conscious that the Court is not dealing with the interpretation of beneficial legislation. However, this Court is taking a clue from the expressions of the aforementioned judgments of the Hon’ble Apex Court regarding the interpretation of a bread-and-butter Government Order, issued under Art 162 of the Constitution of India, i.e.

⁶ (2020) 14 SCC 126

G.O.Ms.No.98 dated 15.04.1986. Indeed, as discussed *supra*, it is a socio-welfare and beneficial scheme.

22. As discussed *supra*, it is an undisputed fact that the name of the petitioner's father was included in the list of 2010, however, he was not provided employment and he died in April, 2018. The mother of the petitioner, as seen from the affidavit, is not eligible and hence, the petitioner made a representation to include his name. If the strict interpretation is being applied to Para No.2 of G.O.Ms.No.98 dated 15.04.1986, in case the awardee or his son/daughter/spouse could not be provided with employment for various reasons, not for their fault, because of the lapses on the part of the Government, (ineligibility by virtue of age and death), the next generation shall be provided with employment grandson. Otherwise, the very purpose of the issuance of G.O. will be frustrated or stultified.

23. It is pertinent to mention here that the Government *vide* Memo No.4346/R&R-A2/2011-2 dated 11.07.2012 included the name of the grandchild of an awardee due to the pathetic condition of the family. In the case at hand, it is not the case of respondents, that no other member of the family is in employment and hence, the petitioner's name shall not be included. In fact, if the petitioner's name is not included in the list, it amounts to discrimination.

24. Learned single Judge of this Court in W.P.No.586 of 2022 dated 16.03.2022 allowed the writ petition directing the respondent authorities to include the name of a grandchild. The intra-court appeal W.A.No.667 of 2022 was dismissed by the Division Bench of this Court on 27.10.2022.

25. Given the discussions *supra*, the Writ Petition is allowed. The respondent authorities shall include the name of the petitioner at serial No.69 against his father as per the list prepared by the District Selection Committee on 25.08.2010 within four weeks from the date of receipt of the copy of the order. Thereafter the respondent authorities shall consider the case of the petitioner for employment in terms of G.O.Ms.No.98 dated 15.04.1986. No costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE SUBBA REDDY SATTI

Note: LR copy to be marked
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