



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF FEBRUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE S.G.PANDIT

WRIT PETITION NO. 29984 OF 2019 (S-KSRTC)

BETWEEN:

1. SMT K C NAGALAMBIKE

2. SRI.ANAND.G



...PETITIONERS

(BY SRI. S.B.MUKKANNAPPA., ADVOCATE)

AND:

1. THE MANAGING DIRECTOR
KSRTC, CENTRAL OFFICES,
K.H.ROAD, SHANTHINAGAR,
BENGALURU - 560 027.



2. THE DIVISIONAL CONTROLLER
KSRTC, RAMANAGARA DIVISION,
RAMANAGARA - 562 159

...RESPONDENTS

(BY SRI. H R RENUKA FOR R1 & R2., ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO-QUASH THE IMPUGNED ENDORSEMENT DATED:02.01.2019 ANNEXURE-J ISSUED BY THE R-2 TO THE WRIT PETITION & ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioners, wife and son of Late S.Guruswamy who was working as senior Driver in the respondent-Karnataka State Road Transport Corporation (for short "Corporation") are before this Court under Article 226 of the Constitution of India, questioning the endorsement dated 02.01.2019 (Annexure-J) calling upon the petitioner No.2 to submit his application, if he is willing to get appointed as Grade-III Junior Assistant-cum-Data Entry Operator/ Driver/ Conductor/Driver-cum-Conductor/ Technical Assistant or Security Guard, in accordance with the Rules regarding Compassionate Appointment of respondent-Corporation and further prayed for a writ of



mandamus directing the respondents to consider the claim of the second petitioner for appointment as Junior Engineer (Civil), Class-III Supervisory cadre on compassionate grounds under the then existing Policy.

2. Heard learned counsel Sri.S.B.Mukkannappa for petitioners and Smt.H.R.Renuka, learned counsel for the respondents. Perused the writ petition papers.

3. Learned counsel for the petitioners would submit that father of the second petitioner Sri.S.Guruswamy was working as senior driver and he died while in service on 10.09.2011. On his death, the first petitioner is said to have submitted an application on 16.04.2012 seeking compassionate appointment for petitioner No.2. It is also submitted that the second petitioner also submitted an application on 16.11.2012 seeking compassionate appointment to the post of Junior Engineer (Civil), since he is a qualified Civil Engineering graduate. Learned counsel Sri.Mukkannappa would submit that initially, an



endorsement at Annexure-E was issued stating that there is no vacancy of Junior Engineer (Civil) and his name would be included in the waiting list for appointment on compassionate grounds. Learned counsel further submits that, thereafter, the KSRTC had taken a decision not to make compassionate appointment to the Supervisory Posts Grade-III. Endorsement at Annexure-H dated 05.09.2018 was issued to the petitioners calling upon petitioner No.2 to submit his application for the post of Junior Assistant-cum-Data Entry Operator, if he is willing to get appointment under compassionate ground. The petitioners were also issued endorsements at Annexures-J and K. Under endorsement at Annexure-K dated 12.01.2019, the petitioner was asked to submit his application to get appointment to Grade-III Security Guard post within 5 days if he is willing, to which, the petitioner replied under letter dated 25.01.2019 stating that he is not interested in Grade-III Security Guard post.



4. Learned counsel Sri.Mukkannappa would contend that the case of the second petitioner shall have to be considered for appointment on compassionate grounds in terms of the scheme which was existing as on the date of death of his father i.e., in the year 2011. He submits that the scheme which existed as on the relevant date provided for appointment to the Supervisory Post and also to Junior Engineer post. Since petitioner No.2 was a qualified Civil Engineering graduate, was qualified and entitled for the post of Junior Engineer. The non-consideration of second petitioner's case is opposed to the scheme as well as action of the respondent-Corporation is discriminatory. Learned counsel would further submit that similarly situated persons have been provided employment in Grade-III Supervisory Post and in that regard, learned counsel for the petitioner would invite attention of this Court to Annexure-P series. Learned counsel would submit that the second petitioner, under Right to Information Act obtained information with regard to availability of vacancies to the post of Junior Engineer in KSRTC,



NEKRTC, BMTC. Through vacancies are available, the petitioner is denied compassionate appointment by the Corporation. Thus, he would pray for a direction to the respondents to consider the case of the second petitioner for compassionate appointment as Junior Engineer in terms of scheme existing in the year 2011.

5. Per contra, learned counsel Smt.H.R.Renuka for respondent corporation would submit that a person cannot seek compassionate appointment as a matter of right and further she submits that a person cannot seek compassionate appointment to a particular post. Further, it is submitted that the compassionate appointment is governed by Rules or Scheme existing in the KSRTC. Learned counsel would submit that, the scheme existed as on the date of death of second petitioner's father provided for compassionate appointment to Group-III Supervisory posts, but subsequently under new scheme which had come into force in the year 2018, appointment on compassionate ground to Supervisory posts are prohibited and only appointments to Class-III posts could be made.



The second petitioner was offered appointment to Class-III post i.e., Junior Assistant-cum-Data Entry Operator; Grade-III Security Guard and Technical Assistant, but the second petitioner refused such appointment. Therefore, she submits that the purpose of providing compassionate appointment would be defeated if the second petitioner is provided compassionate appointment after more than ten years, that too when he refused offer of appointment to Class-III posts. Thus, learned counsel would pray for dismissal of the writ petition.

6. Having heard the learned counsel for the parties and on perusal of the writ petition papers, I am of the view that the petitioner would not be entitled to any relief for the following reasons:

7. Compassionate appointment cannot be sought as a matter of right. Moreover, the compassionate appointment cannot be sought against a particular post. Compassionate appointment could be provided in accordance with the Rules or Scheme available in the State or concerned



Institution. The purpose and object of providing compassionate appointment is see that family of the deceased servant to get over immediate financial distress due to the sudden death of the bread winner.

8. It is an admitted fact that father of the second petitioner was working as senior Driver in the respondent-Corporation and he died while in service on 10.09.2011. Immediately thereafter, the petitioners submitted applications seeking compassionate appointment to second petitioner as Junior Engineer, since the second petitioner possessed qualification of Civil Engineering Degree. Initially, endorsement at Annexure-E dated 04.04.2013 was issued stating that Junior Engineer (Civil) post is not vacant, since he possesses PUC qualification, he would be provided the post of Junior Assistant-cum-Data Entry Operator. The petitioner was also informed that since there is no vacant post of Junior Engineer (Civil), his name would be included in the waiting list of Junior Engineers (Civil) for appointment and his case would be considered



as and when the said post falls vacant. Thereafter, the Corporation has taken a policy decision not to provide compassionate appointment to Supervisory posts and to provide compassionate appointment only to Group-III posts. In terms of the said decision, Annexure-H endorsement dated 05.09.2018 was issued to the second petitioner calling upon him to submit an application, if he is willing to take appointment as Junior Assistant-cum-Data Entry Operator, failing which, his case would be considered in accordance with law. Under Annexure-J, the second petitioner was called upon to get appointment as Grade-III Junior Assistant-cum-Data Entry Operator/ Driver/ Conductor/ Driver-cum-Conductor/ Technical Assistant/Security Guard. But the second petitioner has not submitted his application. Under Annexure-K endorsement dated 12.01.2018, the second petitioner was called upon to submit application for the post of Grade-III Security Guard within five days, since he possesses PUC qualification. The petitioner under reply dated 25.01.2019



refused such appointment to the post of Grade-III Security Guard.

9. The purpose and object of providing compassionate appointment is to see that the family of the deceased employee to overcome the financial difficulty due to the sudden death of the bread winner. In the instant case, the bread winner died in the year 2011 and thereafter, employment offered by the respondent-Corporation was not accepted by the second petitioner. If there was necessity of employment due to the death of breadwinner, the 2nd petitioner ought to have accepted offer of the respondent - Corporation to appoint 2nd petitioner as Grade-III Security guard or Junior Assistant-cum-Data entry operator. The second petitioner insisted for appointment to a particular post i.e., Junior Engineer (Civil). As stated above, when compassionate appoint cannot be sought as a matter of right, at the same time has no right to seek compassionate appointment to a particular post. When the petitioners are able to survive



without compassionate appointment for more than a decade, it means, they may not require appointment much less for compassionate appointment. Thus, I do not find any merit in the writ petition. Accordingly, the writ petition stands rejected.

**Sd/-
JUDGE**

MPK
CT:JR
LIST NO.: 1 SL NO.: 30