

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction) .**

**THURSDAY, THE TWENTY FIRST DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 32711 OF 2021

Between:

M.GEETA, D/o. M.Nagesh, Aged about 37 years, Occ. Un-employee, R/o. Flat No.53 FF, Block-7, Vambay Colony, Aghapura, Dhobi Ghat, VIC Nampally, Hyderabad.

...PETITIONER

AND

1. The Government of Telangana, Rep. by its Principal Secretary, Medical and Health Department, Secretariat, Hyderabad.
2. The Director, M.N.J. Institute of Oncology and RCC, Red Hills, Telangana State, Hyderabad.
3. The Director of Medical Education, State of Telangana, Sultan Bazar, Hyderabad, Telangana State.

...RESPONDENTS

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, Order or Orders more particularly one in the nature Writ of Mandamus declaring that the petitioner is eligible and entitle for compassionate appointment in any class-IV category post under the control of the respondents by setting aside the impugned proceeding No.E3/MNJIO&RCC/2019/327, dated 06/01/2020 issued by the 2nd respondent by extending the benefit of judgment in WP.No.41931 of 2017 Dated. 05/06/2018 reported in 2018 (5) ALT 350 (DB) with all consequential benefits, by holding the action of respondents in rejecting the genuine claim of the petitioner for compassionate appointment though she is dependent on

her late father who was died while in service and not extending the benefits of Judgments of this Hon'ble court in WP.No.16242 of 2013 and WP.No.41931 of 2017 is as illegal, arbitrary, discriminatory and subversive of Article 14 and 16 of Constitution of India.

I.A. NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to consider the case of the petitioner for compassionate appointment in the existing vacancies.

Counsel for the Petitioner: SRI CH. JAGANNATHA RAO

Counsel for the Respondents: GP FOR MEDICAL HEALTH & FW (TG)

The Court made the following: ORDER

HON'BLE MRS. JUSTICE SUREPALLI NANDA

WRIT PETITION No.32711 OF 2021

ORDER:

Heard Sri Ch. Jagannatha Rao, learned counsel appearing on behalf of the petitioner and learned Assistant Government Pleader for Medical and Health Department, appearing on behalf of the respondent Nos.1 to 3.

2. The petitioner approached this Court seeking the prayer as under:

".....to issue, a Writ, Order or Orders more particularly one in the nature Writ of *Mandamus* declaring that the petitioner is eligible and entitle for compassionate appointment in any class-IV category post under the control of the respondents by setting aside the impugned proceeding No.E3/MNJIO and RCC/2019/327, dated 06/01/2020 issued by the 2nd respondent by extending the benefit of judgment in WP.No.41931 of 2017 Dated. 05/06/2018 reported in 2018 (5) ALT 350 (DB) with all consequential benefits, by holding the action of respondents in rejecting the genuine claim of the petitioner for compassionate appointment though she is dependent on her late father who was died while in service and not extending the benefits of Judgments of this Hon'ble court in WP.No.16242 of 2013 and WP.No.41931 of 2017 is as illegal, arbitrary,

discriminatory and subversive of Article 14 and 16 of Constitution of India and pass....."

3. The case of the petitioner in brief as per the averments made in the affidavit filed by the petitioner in support of the present Writ Petition is as under:-

The case of the petitioner is that, following the demise of petitioner's father on 07.11.2017 while serving as a Male Nursing Orderly in the office of 2nd respondent, the petitioner had submitted a representation dated 23.04.2018 seeking appointment on compassionate grounds. The 2nd respondent, vide letter dated 28.04.2018, forwarded petitioner's request to the 3rd respondent. Thereafter, the 3rd respondent, through proceedings dated 02.07.2018, sought clarification regarding petitioner's dependency and the availability of vacancies. In response, the 2nd respondent, by proceedings dated 10.07.2018, confirmed petitioner's eligibility for a Class-IV post and entered petitioner's name in the service register of the deceased employee.

Subsequently, the Revenue Divisional Officer (RDO), Hyderabad, issued a letter dated 24.07.2019 certifying the petitioner's poor financial condition and absence of any source of

income or property. The 2nd respondent forwarded the same on 31.07.2019 along with the required documents. However, the 3rd respondent, by proceedings dated 20.09.2019, raised objections based on Government Memo dated 20.03.2004 regarding the eligibility of *married daughters*. Consequently, the 2nd respondent rejected petitioner's claim vide proceedings dated 06.01.2020.

Despite submitting further representations, including one dated 12.03.2020, which was recommended by the 2nd respondent, the 3rd respondent reiterated earlier objections on 18.06.2020. Aggrieved by the rejection and continued inaction, the petitioner submitted another representation on 26.02.2021 and had approached this court by filing the present writ petition.

4. PERUSED THE RECORD

(A). The order impugned issued by the respondent No.2 on 06.01.2020 is extracted hereunder:

Office of The Director, MNJ Institute of Oncology & Regional Cancer
Center, Red hills, Hyderabad. Telangana-500004

No. E3/MNJIO&RCC/2019/327

Dated: 06-01-2020

From:
The Director,

To:
Smt. Latha,

MNJ Institute of Oncology & Regional Cancer Centre,
Red Hills, Hyderabad-500004

Flat No.53FF Block 7, Vambay Colony,
Agapura Dhobighat Nampally
Hyderabad-500001.

Subject: Estt MNJIO&RCC-Hyd-Sri.M. Nagesh, MNO expired on 07-11-2017 while in service-Representation submitted by Smt. M. Latha, Widow for compassionate appointment of her daughter Smt. B. Geetha--Request Regarding.

Reference: 1. Representation of Smt. Latha for Compassionate Appointment of Smt. Geetha.

2. Rc.No.18518/G2/2018 Dated:-20-09-2019.

3. Govt Memo.No.406/10/A1/Admin.11/2004, Finance (Admin.11) Dept. Dt.20-03-2004.

In accordance with the orders issued by Directorate of Medical Education in the reference cited 3rd Smt.M.Latha, W/o Late M.Nagesh, deceased MNO, She is informed that Govt.vide Memo. No.406/10/A1/Admin.11/2004, Finance Admin. II) Dept.Dt.20-03-2004 has issued clarification for considering married daughter for compassionate appointment that once marriage is performed a daughter is not dependent on her father/Mother even if she is un-employee or her husband is un-employee. A married daughter is dependent on her I father or 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 have not left any property 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 view of the above it is to informed that the representation for compassionate appointment for your daughter is negatived. (D.M.E. copy enclosed).

This is for your information,

Sd/-
(Dr.N. Jayalatha)
Director.

Copy to:
The Director of Medical Education,
Sultan Bazar, Koll, Hyderabad-95. T.S.

**(B). Recommendation letter in favour of the
petitioner dated 28.04.2018 issued by the 2nd respondent
herein is extracted hereunder:-**

OFFICE OF THE DIRECTOR: M.N.J.INSTITUTE OF ONCOLOGY & RCC
RED HILLS: HYDERABAD-500 004 TELANGANA.

No.Estt/MNJ.IO&RCC/2018044.

Dated: 28-04-2018

FROM:

To,

The Director,
MNJ.Institute of Oncology& RCC,
Red Hills,
Hyderabad-500 004.
Sir,

The Director of Medical Education,
Govt. of Telangana, Sulthan Bazar,
Hyderabad-500095.

Sub: Estt-MNJ.IO&RCC, Hyd- Sri.M.Nagesh, MNO, expired on
07-11-2017 while in service-Representation submitted by
Smt.M.Latha, Widow-for compassionate appointment-
Forwarded-Requested – Regarding;

Ref: 1) Govt. Memo No: 11641/Ser.A/2003-1, Dated: 08-10-
2003.

2) Representation of Smt.M.Latha, W/o Late M.Nagesh,
deceased MNO.

I am herewith forwarding the representation dated: 23-04-2018
submitted by Smt. M. Latha W/o. Late Sri. M. Nagesh, deceased MNO,
of this institution expired on 07.11.2017 while in service. One of the
family member of deceased employee is eligible for compassionate
appointment. The widow is already crossed the requisite age and there
was no any male child. The deceased is survived with two daughters.
As per reference 1st cited any one of the daughter is eligible for

compassionate appointment. They belongs to poor SC family and no one is there for their bread winning. With the consent of widow the elder daughter of deceased i.e., Smit. B. Geetha, representing to obtain appointment on compassionate grounds as the widow depends on her.

Hence, I request you to kindly appoint her on compassionate grounds which I shall grateful to you.

This is for your kind information and necessary consideration.

Thanking you.

Yours faithfully,

Sd/-

DIRECTOR

(C). Letter of the 2nd respondent herein is extracted hereunder:-

OFFICE OF THE DIRECTOR: M.N.J.INSTITUTE OF ONCOLOGY &
RCC RED HILLS: HYDERABAD-500004. TELANGANA

No. Esst/MNJ.IO&RCC/2019

Dated: Nill-07-2019

FROM:

To,

The Director,
MNJ.Institute of Oncology& RCC,
Red Hills,
Hyderabad-500 004.

The Director of Medical Education,
Govt. of Telangana, Sulthan Bazar,
Hyderabad-500095.

Sir,

Sub: Esst-MNJ.IO&RCC, Hyd- Sri.M.Nagesh, MNO, expired on 01-11-2017 while in service-Representation submitted by Smt. M.Latha,Widow-for compassionate appointment- daughter Smt. B. Geetha- submitted the financial status certificate Request - Regarding;

Ref: 1) My representation for Compassionate Appointment of my daughter Smt. Geetha.

2) Govt. Memo No:11641/Ser.A/2003-1, DAted:08-01-2003.

3) Govt. Memo No:3458/Ser-G/A2010-8, Dated:24-03-2012.

4) Lr.No: Estt/MNJ.IO&RCC/2018/044, Dated:28-04-2018 of the Director, MNJ.IO&R.

5) Lr.No: E3/MNJ.IO&RCC/2018/133, Dated:10-07-2018 of the Director, MNJ.IO&R.

6) This office No:E3/MNJ.IO&RCC/2018, Dated: 09-2018.

7) Lr.No:E/782/2019, Dated:24-07-2019 of the RDO, Hyderabad Division.

8) Submitted Financial Status Certificate by the individual.

I am herewith forwarding the Financial Status Certificate issued by the RDO, Hyderabad reference 7th cited, as desired your office in respect of Smt. B. Geetha, elder daughter of Late Sri M. Nagesh (deceased MNO), for compassionate appointment.

Hence, I once again request you to kindly issue the orders as early as possible which I am grateful to you.

Thanking you.

Yours faithfully,

Sd/-

DIRECTOR

(D). Letter dated 20.09.2019 of the Director of Medical Education, Telangana State, Hyderabad is extracted hereunder:-

OFFICE OF THE DIRECTOR OF MEDICAL EDUCATION,
TELANGANA STATE, HYDERABAD

RC No. 19519/G2/2018

Dated: 20-09-2019

Sub: DME - TS- Sri M. Nagesh, MNO expired on 07-11-2017 while in service- Representation submitted by Smt. M. Latha (Widow) - for providing compassionate appointment - to her married daughter- Regarding.;

Ref: 1)RC.No.Esst/MNJIO&RCC/2018/044,Dated 28.04.2018 of the Director, MNJIO&RCC, Hyderabad.

2) Representation of Smt. M.Latha, W/o Late M.Nagesh, deceased MNO Dt.23-04-2018.

3) This office Lr.Rc.No.18518/G2/2019, Dated:02-07-2018.

4) Rc.No.Esst/MNJIO&RCC/2018/044,Dt.10-07-2018 of the Director, MNJIO&RCC, Hyderabad.

5) This office Lr.Rc.No.18518/G2/2019,Dt.04-08-2018.

6) Rc.No. Esst/MNJIO&RCC/2018/166,,Dt.13-08-2018 of the Director, MNJIO&RCC, Hyderabad.

7) This office Lr.Rc.No.18518/G2/2019,Dt.07-09-2018.

8) Rc.No.Esst/MNJIO&RCC/2018/156, Dt.31-07-2019 of the Director, MNJIO&RCC, Hyderabad.

9) Govt, Memo.No.116417/Ser.A/2003-1, Dated:08-10-2003 Govt of A.P.

10) Govt. Memo.No. 406/10/A1/Admn.II/2004 Finance (Admn.II) Dept. Dated.20.03.2004 Govt of A.P.

The Attention of the Director, MNJ Institute of Oncology and Regional cancer Centre, Red Hills, Hyderabad is invited to the references cited and she is informed that Govt. Vide Memo. No. 406/10/A1/Admn.II/2004,Finance(Admn)Dept. Dt. 20.03.2004 (copy enclosed) has issued clarification for considering married daughter for

compassionate appointment that "once marriage is performed a daughter is not dependent on her father/mother if she is un-employee or her husband is un-employee. A married daughter is dependent on her father/mother even 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 not have left any property 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 view of the above the Director, MNJIO&RCC, Hyderabad is requested to take necessary action in the matter as per existing Government rules in force and inform the individual accordingly.

This has got the approval of the Director of Medical Education, T.S. Hyderabad.

Sd/-
B.Prem Kumar
Deputy Director (Admn.)

// Attested//

for Director of Medical Education

To
The Director
MNJIO&RCC,
Red Hills, Hyderabad.

(E) Counter affidavit filed on behalf of 2nd respondent in particular para No.5 is extracted hereunder

5. It is submitted that this office vide No.E3/MNJIO&RCC/2019/153, dated 31.07.2019 forwarded the Financial Status Certificate as issued by the RDO and NOC from the younger sister of Smt.Geetha, to the Director of Medical Education, TS, Hyderabad and requested to take necessary action. Then the Director of Medical Education, TS, Hyderabad vide their letter Rc.No: 18518/G2/2018, Dated: 20-09-2019 stated that as per Govt. Memo No: 406/10/A1/Admn.II/2004, Finance (Admn.II) Dept, Dated: 20-03-2004 has issued clarification for considering married daughter for compassionate appointment that **"once marriage is performed a daughter**

is not dependent on her father/mother even if she is un-employee or her husband is un-employee. 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 have not left any property income to his wife and the married daughter is solely dependent on the support provided by her father/mother and is an un-employee". The Director of Medical Education, Hyderabad also suggest to take necessary action in the matter as per existing rules and inform the individual accordingly. Vide this office No: E3/MNJIO&RCC/2019/327, Dated: 06-01-2020 the Director, MNJ. Informed the same to Smt.Geetha as her representation is negatived by the appointing authority i.e., DME, Hyderabad. But she blamed in her writ that this office rejected her representation is not correct".

(F) Memo No.406/10A. I/Admn. 11/2004. Fin.,

(Admn.II) dated 20-03.2004 is extracted hereunder

Order:-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 should be unwilling or 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.

2. He is also informed that once marriage is performed, a daughter is not dependent on her father / mother even if she is un-employee or her husband is un-employee. 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 / income to his wife and the married daughter is solely dependent on the support provided by her father / mother and is an unemployed.

3. The Director of State Audit, A.P., Hyderabad is requested to examine the case on the above lines and also keeping the G.Os and instructions on the subject and take a view in the matter.

(G). Counter affidavit filed on behalf of the 2nd respondent had been answered by way of a reply by the petitioner and in particular para No. 4 & 5 of the said reply is extracted hereunder:-

4) In response to Paras 5&6 of the counter I submit that as per the Govt. memo dated 20.03.2004 **a married daughter is also entitled for compassionate appointment if she is dependent on her father/mother and further she and he husband are the unemployed. Therefore in the instant case I am the dependent on my father/mother since long time along with my husband in the same residence.** In this connection it is relevant to submit that as per my Adhar Card No.229719101338 my residential address is Flat No.53 FF, block-7, Vombay colony, Aghapura, Dhobigat, VTC Nampally, Hyderabad. Added to that as per the voter ID card issued by the Election Commission of India my residential address is also reflecting like same address of the Adhar card. Similarly as per the receipt given by the HP Gas also my address is reflecting as per the my adhar card. I submit that ask per the Adhar card No.949154379264 my mother address is also reflecting same as of my Adhar card address. Thus it is very clear myself along with my husband and children are living in the same residence of my father/mother only and thus I am dependent on my father/mother as myself and my husband are not working anywhere either in Govt or Private Institutions and further my husband is a very chornic patient. Thus I am being the dependent of father/mother and living along with them in the very same residence I am legitimately entitled for compassionate appointment as per the Govt. memo dated 20.03.2024.

5. The learned counsel appearing on behalf of the petitioner mainly puts forth the following submissions:

a) Neither the petitioner nor her husband is employed in any Government service. Both the petitioner and her husband are dependent on the petitioner's father, Late Sri M. Nagesh, who died on 07.11.2017 while in service as a Male Nursing Orderly (MNO) in the office of the 2nd respondent.

b) After the demise of the petitioner's father, the petitioner, being the elder daughter, submitted a representation dated 23.04.2018 requesting the 2nd respondent to consider petitioner's case for compassionate appointment, as the petitioner's husband is suffering from a chronic illness, namely "Hypothecate Seizure Disorder," and is unable to work.

c) The Revenue Divisional Officer (RDO), Hyderabad, furnished a letter to the second respondent certifying that the petitioner does not possess any movable or immovable property and has no independent source of income.

d) The 2nd respondent herein had forwarded the Financial Status Certificate issued by the RDO to the 3rd respondent and requested that compassionate appointment be granted to the petitioner.

e) Further, a No Objection Certificate (NOC) from the younger daughter of the deceased employee was also submitted to the 3rd respondent, which indicates clearly that the second daughter has no objection to the petitioner being appointed on compassionate grounds.

f) However, the 2nd respondent, by proceedings dated 06.01.2020, rejected the petitioner's claim for compassionate appointment, relying on Memo No.406/10/A1/Admn.II/2004, Finance (Admn.II) Department, dated 20.03.2004.

g) The petitioner's case for compassionate appointment ought to have been considered in accordance to the said Government Memo dated 20.03.2004, as the petitioner satisfies the conditions prescribed therein, since the petitioner and her husband are unemployed, residing with the petitioner's parents, and are wholly dependent on them.

h) The petitioner's husband is suffering from a chronic illness, and the petitioner has produced relevant documentary evidence in support of petitioner's claim, including proof of residence and financial status, but however, despite the availability of such material evidence, the respondents failed to

consider the same and passed the order impugned dated 06.01.2020 in a routine, casual, and mechanical manner without proper application of mind. Therefore, the impugned order is liable to be set aside.

Based on the aforesaid submissions, the learned counsel appearing on behalf of the petitioner contends that the petitioner is entitled for the relief as prayed for by the petitioner in the present writ petition.

6. The learned Assistant Government Pleader appearing on behalf of the respondents, relying on the counter affidavit filed by the 2nd respondent, in particular paragraph No.5, contends that the petitioner's representation had been rejected by the competent authority, i.e., the Director of Medical Education (DME), Hyderabad, as the petitioner did not satisfy the conditions prescribed under Memo No.406/10/A1/Admn.II/2004 dated 20.03.2004. Hence, the present writ petition needs to be dismissed.

DISCUSSION AND CONCLUSION:-

7. A bare perusal of Clause (ii) of the said Memo No.406/10/A1/Admn.II/2004 dated 20.03.2004 indicates that a married daughter could be considered for

compassionate appointment if she is dependent on her parents and is residing with them. In the present case, it is not disputed that the petitioner and her husband are residing with the petitioner's parents and that her husband is suffering from a chronic illness.

8. A bare perusal of averments made at paragraph Nos. 4 and 5 of the reply affidavit filed by the petitioner (referred to and extracted above) clearly indicates that it is the specific case of the petitioner that the petitioner being dependent on her parents, is residing with them, and that both the petitioner and her husband are unemployed. It is also not in dispute that the younger daughter of the deceased employee has given her consent for the petitioner's appointment. Despite these facts, the respondents rejected the petitioner's request in a routine and mechanical manner without proper consideration.

9. **A bare perusal of the material on record, in particular the recommendation of the Director, MNJ Institute of Oncology & RCC, Red Hills, Hyderabad dated 28.04.2018, the subsequent communication dated 10.07.2018, and the Financial Status Certificate dated**

24.07.2019 issued by the Revenue Divisional Officer, Hyderabad, clearly indicates that the petitioner does not possess any movable or immovable property, and that the petitioner's husband is suffering from "Hypothecate Seizure Disorder," and that the petitioner and her husband are residing with petitioner's parents and are dependent on the petitioner's parents, and that the younger daughter of the deceased employee has issued a No Objection Certificate in favour of the petitioner. These documents clearly demonstrate that the petitioner's case falls within the parameters of the Government Memo dated 20.03.2004 for consideration of compassionate appointment. However, the respondents failed to consider the aforesaid material evidence, including proof of residence (Aadhaar and other records), financial incapacity, and dependency, and rejected the petitioner's claim in a routine manner without due application of mind.

10. This Court opines that the petitioner is entitled for reconsideration of petitioner's case for appointment on compassionate grounds, in view of the judgments of the Division

Bench of this Court passed in W.P. No.16242 of 2013, dated 20.06.2013 and W.P. No.41931 of 2017, dated 05.06.2018 passed in similar circumstances.

11. This Court further opines that the judgment relied upon by the learned Assistant Government Pleader is not applicable to the facts of the present case, in view of the fact that the deceased employee died on 07.11.2017 and the petitioner submitted her application for compassionate appointment on 23.04.2018, within a reasonable time.

The Division Bench of this Court *vide* judgment dated 20.06.2013 under similar circumstances dealing with the case of a married daughter for compassionate appointment dated 20.06.2013 passed in W.P.No.16242 of 2013 observed as under:

"On the other hand, the learned counsel appearing for the respondent submitted that as per the scheme notified by the Government, even married daughters are entitled for appointment on compassionate grounds and that the applicant as well as her husband, who were, unemployed, were dependant on the deceased employee. As per the scheme notified by the Government, since the benefit of compassionate appointment to the children of the deceased employee was extended to married daughters also, to rescue the family from immediate financial troubles, the respondent/applicant is entitled for appointment on compassionate grounds. When the petitioners herein rejected

the claim of the respondent/applicant without recording any reasons, on the application filed by her, the Tribunal considered the matter by the order impugned and issued directions, which are in accordance with the scheme and there is no reason to interfere with the same.

As evident from the scheme notified by the Government, the dependent children of a deceased Government servant who dies in harness are eligible for compassionate appointment to the Ministerial posts, such as Clerks, Typists, Steno-typists etc. When a doubt had arisen whether a married daughter can be considered to extend the benefit of compassionate appointment, it is clarified in the orders issued by the Government itself in G.O.Ms.No.350, dated 30.07.1999 and further orders dated 08.10.2003 issued in memo No.116417/Ser.A/2003-1, that married daughters are entitled for consideration for appointment on compassionate grounds, subject to eligibility as per the scheme notified in this regard. A certificate issued by the Spl. Grade Deputy Collector, Ranga Reddy District is placed on record certifying the financial position of the applicant as unsound. Even in the report submitted by the Station House Officer, Ghatkesar, in clear terms it is stated that the applicant and her husband were living in the house of the deceased Sri K.Ramachandra Raju and were also taking care of widow of Sri K.Ramachandra Raju.

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 suing 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 die in harness."**

12. The Division Bench of this Court in its Order dated 05.06.2018 passed in W.P.No.41931 of 2017 reported in 2018 (5) ALT 350 (DB) at para nos.7 & 8 observed as under

7. We note in the rejection order that the respondent-authority has simply mentioned that the petitioner is not eligible for appointment on compassionate grounds in terms of Government Instructions issued vide Memo No.406, dated 20.3.2004. On perusal of the said memo, it is clear that there are three pre-conditions for getting compassionate appointment especially, when the applicant is a married daughter. They are as under:

“(i) There should be no younger or older unmarried dependants in the family and the spouse should be unwilling or ineligible for appointment.

(ii) The married daughter should be dependant 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 Nos.1 and 2 are fulfilled."

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.

8. 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.

13. This Court opines that the petitioner is entitled for re-consideration of the petitioner's case for appointment on compassionate grounds in view of the observations of the Division Bench of this Court dated 20th June, 2013 passed in W.P.No.16242 of 2013 and order of the Division Bench of this Court dated 05.06.2018 passed in W.P.No.41931 of 2017 in the case of Smt.V.Shashi Kala Vs. District Collector, Anantapuram and others (referred to and extracted above).

14. Taking into consideration:

(a) The aforesaid facts and circumstances of the case,

(b) The submissions made by the learned appearing on behalf of the petitioner and learned Assistant Government Pleader appearing on behalf of the respondents.

(c) The averments made in the counter affidavit filed on behalf of the respondent No.2 in particular para no.5 (referred to and extracted above).

(d) The recommendations in favour of the petitioner dated 28.04.2018 (referred to and extracted above) and dated 02.07.2018 (referred to and extracted above) 10.07.2018 (referred to and extracted above).

(e) The certificate issued by the Revenue Divisional Officer, Hyderabad on 24.07.2019 and letter dated 31.07.2019,

The writ petition is allowed. The impugned order dated 06.01.2020 passed by the 2nd respondent herein is set aside. The matter is remitted to the 2nd respondent, the 2nd respondent is directed to re-consider the request of the petitioner for compassionate appointment duly taking into consideration the very object of the scheme of compassionate appointment in accordance to law, in conformity with principles of natural justice by providing an opportunity of personal hearing to the petitioner duly considering all the relevant documents in support of the petitioner's case and in support of the petitioner's specific

plea that the petitioner's case falls for consideration as per Memo dated 20.03.2004, vide Memo No.406/10A. 1/Admn 11/2004, Fin., (ADMN.II) duly taking into consideration the view of this Court in the Judgments (referred to and extracted above) and pass appropriate reasoned orders within a period of four (4) weeks from the date of receipt of a copy of this order and duly communicate the decision to the petitioner. However, there shall be no order as to costs.

Miscellaneous applications, if any, pending shall stand closed.

//TRUE COPY//

SD/-K. BHAVANI SWAMY
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Principal Secretary, Medical and Health Department, Secretariat, Hyderabad.
2. The Director, M.N.J. Institute of Oncology and RCC, Red Hills, Telangana State, Hyderabad.
3. The Director of Medical Education, State of Telangana, Sultan Bazar, Hyderabad, Telangana State.
4. One CC to SRI CH.JAGANNATHA RAO, Advocate [OPUC]
5. Two CCs to GP FOR MEDICAL HEALTH & FAMILY WELFARE, High Court for the State of Telangana at Hyderabad . [OUT]
6. Two CD Copies

PMK
BS

Yps

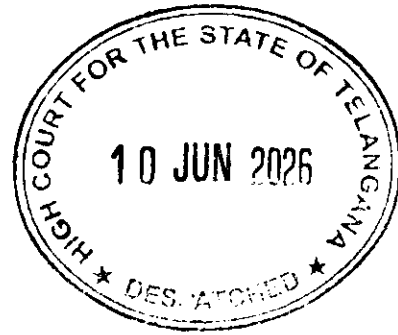
HIGH COURT

CC TODAY

DATED: 21/08/2025

ORDER

WP.No.32711 of 2021



ALLOWING THE WRIT PETITION
WITHOUT COSTS

⑨
lps
9/6/26