

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5770 OF 2007  
[Arising out of SLP(C) No.3630/2007]

V. DINESH REDDY AND ANR. ... APPELLANT(S)

:VERSUS:

B. UDAYA KUMAR ... RESPONDENT(S)

ORDER

Leave granted.

Respondent herein filed an application for his appointment on compassionate ground as his father had expired on 28.2.2002. In his application he sought for appointment on the post of Conductor. He was found to be age barred. A representation was made in that behalf. No response thereto was made. Before the High Court it was conceded in a writ petition filed by the respondent herein that he may be considered for appointment on the post of Shramik. A Division Bench of the High Court of Andhra Pradesh in view of the said concession made, passed the following order:

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"Accepting these submissions from both sides, the writ appeal is disposed of directing the appellants to consider the case of the respondent for appointment to the post of Shramik on compassionate grounds and pass orders in accordance with law. No costs."

As despite passing the said order no step was taken, a contempt petition was filed. The alleged contemnor Shri A. Rama Krishna in his counter affidavit stated:

"I submit that the Recruitment Regulations for recruitment to the post of Shramik have been amended through the Board Resolution NO. 95 of 2000, dated 26.09.2000 and the requisite qualification for the post of Shramik has been made as ITI (Diesel Mechanic Trade). After obtaining approval from the Government, the

amended regulations have been notified through Notification No.PD-11/2001, dated 12.07.2001. Thus, the petitioner should possess ITI (Diesel Mechanic Trade) qualification for considering his case for the post of Shramik. But the qualification of the petitioner is S.S.C. only, and therefore, his name could not be registered for the post of Shramik.

I humbly submit that complying with the orders in W.A. No.1824 of 2005, proceedings dated 10.11.2006 have been issued duly advising the petitioner herein to claim Additional Monetary Benefit in lieu of employment.

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I submit that the delay in implementing the orders of this Hon'ble Court in W.A. No.1824 of 2005 dated 4.10.2005 was caused due to administrative reasons. I have great respect to the judiciary and this Hon'ble Court and I tender my unconditional apology to this Hon'ble Court for the delay caused in implementing the orders of this Hon'ble Court."

By reason of the impugned order a Division Bench of the High Court disposed of the said contempt petition directing that appellant to appoint the respondent in any other suitable post. Compliance thereof was directed to be reported to the High Court within a period of three weeks therefrom.

The appellants are thus before us.

By an order dated 16.11.2007, this Court directed issuance of a notice as to why, in view of the change in stand, the appellants did not even offer additional monetary benefits to the respondent and/or as to whether the respondent can now be directed to be appointed on the post of Conductor.

Mr. L. Nageshwar Rao, learned senior counsel appearing on behalf of the appellants has placed before us G.O.Ms. No.36 dated 5.9.2001, issued by the Government of Andhra Pradesh wherein the following policy decision has been taken:

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"4) Keeping the above objective in view and after careful examination Government have decided that the Scheme of compassionate appointment to State Legal Public Enterprises (SLPEs) should be dispensed with and in lieu thereof the following amounts be paid as Ex-Gratia to the dependents of the employees of ELPes

dying in harness.

- a) Class IV Employees. ... Rs.50,000/-
- b) Ministerial Staff. ... Rs.75,000/-
- c) Officers & Executives. ... Rs.1,00,000/-

5) The amount shall be paid by the concerned appointing authority/office in which the deceased employee of the SLPEs worked.

6) These orders shall come into force with immediate effect. Government also direct that the earlier cases shall not be entertained under any circumstances."

Our attention has further been drawn to a proceedings of the Regional Manager, Srikakulam, dated 10.11.2006 wherein it was stated:

"In compliance with the order of Hon'ble High Court in Writ Appeal NO.1824/2005, the case of the petitioner in WP No.16096/2005 has been considered in accordance with the rules, circulars and instructions in vogue.

Recruitment Regulations for recruitment to the  
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post of Shramik have been amended through the Board Resolution No.95/2000, dated 26.09.2000 and the requisite qualification for the post of Shramik has been made as ITI (Diesel Mechanic Trade). After obtaining government's approval the amended Regulations have been notified through notification No.PD-II/2001, dated 12.07.2001. Therefore for the deaths occurred on or after 12.07.2001, the requisite qualification for the post of Shramik under Bread Winner Scheme is, ITI in diesel Mechanic Trade. The father of the petitioner in WP No.16096/05 expired on 28.02.2002, therefore the petitioner should possess ITI (Diesel Mechanic Trade) qualification for considering his case for the post of Shramik. But his qualification is Xth class (SSC). Therefore, his case cannot be considered for appointment to the post of Shramik. Moreover, registration for the post of Shramik under Bread Winner Scheme has been banned w.e.f. 16.09.2002 and only the application for the post of Conductors and Drivers are being registered under the Scheme.

Further, the Government of Andhra Pradesh vide GOMs No.36 dated 05.09.2001 has issued instruction dispensing with the Scheme of compassionate appointments in State level Public Sector Enterprises and advising to pay ex-gratia to the dependents of the employees died in harness. As per "Andhra Pradesh (Regulation Structure) Act, 1994 (Act 2 of 1994) permission of State Government has to be obtained for any appointments in any Public Department vide letter dated 05.03.2005 has informed that any appointments in APSRTC shall be taken up only with the prior approval of the Government. Therefore letters dated 02.05.2005

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and 11.11.2005 have been addressed to the Government requesting to accord permission for appointment of

dependents of employees died in harness under the "Bread Winner Scheme" in the posts of Drivers and Conductors. But the permission of the Government has not been received."

In view of the fact that now G.O.Ms. No.36 dated 05.09.2001 has been issued by the State of Andhra Pradesh, we are of the opinion that the direction issued by the High Court cannot be directed to be complied with.

We, therefore, in modification of the order passed by the High Court, direct that additional monetary benefit in lieu of appointment on compassionate ground, namely, a sum of Rs.1 lakh shall be paid to the respondent within four weeks from the date of receipt of a copy of this order, failing which the same shall carry interest at the rate of 12% per annum.

Furthermore, in view of the fact that the appellants have prevaricated its stand from time to time, we also direct that an additional sum of Rs. 50,000/- be paid to the respondent by way of litigation costs. The said payment shall also be made within four weeks from the date of receipt of this order.

The appeal is dismissed with the aforementioned directions.

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.....J  
(S.B. SINHA)

.....J  
(G.S. SINGHVI)

NEW DELHI,  
DECEMBER 7, 2007.

ITEM NO.39                      COURT NO.6                      SECTION XIIA

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

the HIGH COURT OF A.P. AT HYDERABAD)

V.DINESH REDDY & ANR.  
VERSUS

Petitioner(s)

B.UDAYA KUMAR

Respondent(s)

(With prayer for interim relief and office report)

Date: 07/12/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA  
HON'BLE MR. JUSTICE G.S. SINGHVI

For Petitioner(s)      Mr. L.N. Rao, Sr.Adv.  
                                 Mr. R. Santhan Krishnan,Adv.  
                                 Ms. K. Radha Rani,Adv.  
                                 Mr. Praveen Kumar,Adv.  
                                 Mr. P. Vijaya Kumar,Adv.  
                                 Mr. D. Mahesh Babu,Adv.

For Respondent(s)      Mr. V. Sridhar Reddy,Adv.  
                                 Mr. V.N. Raghupathy,Adv.

UPON hearing counsel the Court made the following  
ORDER

Leave granted.

Heard the learned counsel for the parties for about half an  
hour.

The appeal is dismissed with directions as contained in terms of  
the signed order.

(A.S. BISHT)  
COURT MASTER

(PUSHAP LATA BHARDWAJ)  
COURT MASTER

[Signed order is placed on the file]