

**HON'BLE SRI JUSTICE RAVI CHEEMALAPATI**

**W.P.No.4302 OF 2020**

**ORDER:**

The present Writ Petition has been filed for the following relief:

“...issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the Order in D.Dis.No.A3/25169/2018 in File No.REV-ASECOMIS/361/2018-DT(A3)-REVCOLATP, dated 17.11.2019 issued by the respondent No.2, the consequential proceedings in RC.No.B4/79/2018, dt.09.09.2020 issued by the respondent No.3, rejecting the petitioner's request for appointment on compassionate grounds on death of her father Late.S.Prasad as Cook in Social Welfare Boys Hostel, Peddavaduguru, on the ground that married daughters are not entitled for compassionate appointment as illegal, arbitrary and contrary to the well established legal principles apart from being volatile of the fundamental and constitutional rights guaranteed to the petitioner under Articles 14, 19 and 21 of the Constitution of India and consequently direct the 2<sup>nd</sup> respondent to appoint the petitioner in a suitable post on compassionate grounds.....”

2. The case of the petitioner, in brief, is that her father Late.S.Prasad was appointed as a Cook in Social Welfare Boys Hostel, Peddavaduguru in the year 1997 and was in service till his demise on 11.05.2018, leaving behind him, the petitioner and her mother. Upon death of her father, her mother had submitted a representation to the respondent No.3 on 14.06.2018 to consider her candidature for appointment on compassionate grounds and the 3<sup>rd</sup> respondent had requested respondent No.4 under communication dated 19.06.2018 to furnish a report with necessary details required for considering her candidature for appointment on compassionate grounds. It is the further case of the petitioner that pursuant to the same, the respondent No.4 had submitted a report to the 3<sup>rd</sup> respondent RC.No.C/138/2018, dated 16.07.2018 categorically stating that the petitioner and her mother are facing much financial hardship and they have no other source of income or property. The further case of the

petitioner is that respondent No.4 had issued No earning Member Certificate, Socio Economic Status Certificate, Unemployment Certificate and No Property Certificate along with statements of witnesses, who have affirmed that the petitioner been taking care of her mother and that the petitioner's husband is a daily wage labourer, and the family is in grave difficulties ever since the demise of the petitioner's father. However, the 2<sup>nd</sup> respondent, did not consider the above material and issued the impugned proceeding rejecting the request of the petitioner by duly relying memo No.460/10/A.1/Admn.II/2004, dated 20.03.2004, wherein married daughters are not eligible for appointment on compassionate grounds, unless she has been either deserted by her husband or her husband disappears and since the petitioner's husband lives with petitioner and her parents, her case was rejected. Questioning the same the present Writ Petition is filed.

3. The respondents 1 to 4 filed their counter, inter alia, contending that vide Memo.No.406/10/A.I/Admn.II/2004, dated 20.03.2004, once marriage is performed a daughter is not dependent on her father/mother, even if she and her husband are unemployees and based on that memo the petitioner's request for providing compassionate appointment was rejected. It is further stated in the said counter that a direction was given to furnish revised proposals in the name of any another eligible family member, if available for providing employment under compassionate grounds or to take further action regarding sanction of *exgratia*, as per the eligibility to the dependent legal heirs of the deceased employee. It is further contended in the counter that once daughter got married, she is not dependent of

her father/mother and since the petitioner is married daughter of the deceased employee, she is not entitled for compassionate appointment and accordingly prayed to dismiss the writ petition.

4. Heard, Sri Sashidhar Reddy representing Sri V.R.Reddy Kovvuri, learned counsel for the petitioner and Sri Amrutha Raj, learned Assistant Government Pleader for Services-II.

5. The learned counsel for the petitioner in elaboration to what has been stated in the affidavit contended that even married daughters are eligible to be appointed on compassionate grounds and that the petitioner has been looking after her mother and there is no other family member to look after her. It is further contended that the petitioner's husband is only a coolie and with the meagre income earned by him it is very difficult to look after their family and also the mother of the petitioner. The learned counsel for the petitioner further contended that unless and until job is provided to the petitioner under compassionate appointment, in view of lack of financial support, the petitioner is not in a position to take care of the mother. Stating so the counsel for the petitioner has drawn the attention of this court to the orders of this Hon'ble Court in W.P.No.3017 of 2020 and 26946 of 2021 by placing copies on record. While referring the above orders, the counsel for the petitioner draws attention of this court paragraph Nos.11 and 15 in WP.26946 of 2021 which read as follows:

*“11. The Memo dated 20.03.2004 and other Government Orders fell for consideration by the Hon'ble Division Bench in K.Padmaj's case referred to supra. The Hon'ble Division Bench while dealing with the Writ Petition filed by the Department against the orders passed by the erstwhile Andhra Pradesh*

*Administrative Tribunal in O.A.No.6938 of 2012 considered similar contentions advanced and dismissed the Writ Petition confirming the said judgment, the Hon'ble Division Bench, Inter Alia, opined that even if the applicant is residing in a separate house, that by itself is not ground to reject the claim of the appointment. The Hon'ble Division Bench incidentally held that merely because family pension is paid to the wife of the deceased, the same is not a ground to deprive the benefit of compassionate appointment under the scheme notified by the Government for the children of the deceased, who dies in harness.*

*15. Be that as it may. The Memo dated 20.03.2004 on the basis of which the petitioner's case for compassionate appointment was rejected is clarificatory in nature. The object of the scheme of compassionate Appointment is to provide support to the family of the deceased Government employee who dies in harness. As stated in the petitioner's application, her husband is a daily wage coolie/labour and the petitioner's father used to take care of her family. On the death of the bread winner i.e., the deceased employee's widow i.e., the mother of petitioner has also to be taken care of. If the petitioner and her husband are not in a position to maintain their family as they are dependent on the deceased employee, they cannot be expected to take care of widow of the deceased employee either."*

6. Similarly, paragraph Nos. 4 and 5 in WP.3017 of 2020 reads are as follows:

*"4. In both these Judgments, Memo.No.406/10/A.1/Admn.II, dated 20.03.2004 was considered and it was held that married daughters, who may be residing in a separate house would also be entitled for compassionate appointment.*

*5. In these circumstances, the present writ petition is allowed and the proceedings vide Endorsement Rc.No.A3/39/2018, dated 19.12.2019 of the 1<sup>st</sup> respondent is set aside with a further direction to the respondents to consider and appoint the petitioner in a suitable post, in accordance with law, within a period of three (3) months from the date of receipt of a copy of this order, provided that there are such posts available for appointment of the petitioner. There shall be no order as to costs.”*

7. On the other hand, the learned Assistant Government Pleader for Services-II has not raised any serious disputes regarding the orders referred to.

8. A perusal of the reports placed on record as part of the material shows that all the reports are supporting the petitioner's case except the memo basing on which the petitioner's case has been rejected. The facts and circumstances of the cases covered by the above referred orders are similar to the facts of the present case. In the present case, the petitioner, who is a married daughter has to take care of mother. Thus, this Court finds that the facts and circumstances of the cases covered by the orders referred to supra are similar to the facts of the case on hand and this Court thinks it fit to allow this writ petition in the light of the observations made in the above referred orders. It is needless to observe that the petitioner has to take care of her mother on par with the standard of living of the petitioner.

9. In view of the above factual and legal position, this Writ Petition is allowed and the impugned order in D.Dis.No.A3/25169 IN File No.REV-ASECOMIS/361/2018-DT(A3)-REVCOLATP, dated 17.11.2019 of the 2<sup>nd</sup> respondent and the consequential proceedings in Rc.No.B4/79/2018, dated

09.09.2020 issued by the 3<sup>rd</sup> respondent, are hereby set aside.

The respondents are directed to consider the case of the petitioner for compassionate appointment in any suitable post, within a period of eight (08) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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

**29.04.2022**  
**DMR**

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**RAVI CHEEMALAPATI, J**

**HON'BLE SRI JUSTICE RAVI CHEEMALAPATI**

**W.P.No.4302 of 2020**

**29<sup>th</sup> April, 2022**

**DMR**