

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

FRIDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 36407 OF 2014



Between:

Jakkula Mary Puja, W/o. Jakkula Veeraju, age 40 years, Occ: Cooli
Vidyanagar, Eluru, West Godavari District

...PETITIONER

AND

1. The Andhra Pradesh State Road Transport Corporation, Rep by its
Chairman and Managing Director Bus Bhavan, Musheerabad,
Hyderabad
2. The APSRTC Depot Manager, Eluru Depot, Eluru, West Godavari
District
3. J. Vijaya Lakshmi, Flat No. 203, Kunde Apartments, Near L.V. Prasad
Hospital, R.R. Peta, Eluru

...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, direction, order or orders more particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent in paying the settlement dues of petitioner's deceased husband Sri. Jakkula Veeraju to the 3rd respondent and not providing compensatory appointment either to the petitioner or to her daughter in spite of petitioner's representation dated 17.10.2014 as illegal, irregular, arbitrary, malafide, without application of mind and against to principles of natural justice apart from being violative of Article 19 and 21 of the constitution of

India and consequentially direct the 2nd respondent to pay the remaining settlement due amount and family pension of petitioner's deceased husband to the petitioner and to provide job under compensatory appointment either to the petitioner or to her daughter in the interest of justice.

I.A. NO: 1 OF 2014(WPMP. NO: 45580 OF 2014)

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 2nd respondent not to disburse any settlement due amount in respect of petitioner's deceased husband Sri. Jakkula Veeraju in favor of the 3rd respondent pending disposal of the above writ petition in the interest of justice.

IA NO: 1 OF 2018

Between:

Jakkula Vijaya Lakshmi, W/o. Late Jakkula Veeraju, Aged about 49 years, Occ: House hold, R/o. Flat No. 203, Kunde Apartments Near L.V. Prasad Hospital, R.R. Peta, Eluru

...PETITIONER/RESPONDENT NO.3

AND

1. Jakkula Mary Puja, W/o. Jakkula Veeraju, age 40 years, Occ: Cooli Vidyanagar, Eluru, West Godavari District

...RESPONDENT/WRIT PETITIONER

2. The Andhra Pradesh State Road Transport Corporation, Rep by its Chairman and Managing Director Bus Bhavan, Musheerabad, Hyderabad
3. The APSRTC Depot Manager, Eluru Depot, Eluru, West Godavari District

...RESPONDENTS/ RESPONDENTS 1 AND 2

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 permit the petitioner to change her Counsel on record and to appoint the Counsel Mr. Prakash Chakravarthy, as her Counsel to represent on her behalf in the above WP.No.36407 of 2014 along with all miscellaneous petitions connected therein.

IA NO: 2 OF 2018

Between:

Jakkula Vijaya Lakshmi, W/o. Late Jakkula Veeraju, Aged about 49 years, Occ: House hold, R/o. Flat No. 203, Kunde Apartments Near L.V. Prasad Hospital, R.R. Peta, Eluru

...PETITIONER/RESPONDENT NO.3

AND

1. Jakkula Mary Puja, W/o. Jakkula Veeraju, age 40 years, Occ: Cooli Vidyanagar, Eluru, West Godavari District

...RESPONDENT/WRIT PETITIONER

2. The Andhra Pradesh State Road Transport Corporation, Rep by its Chairman and Managing Director Bus Bhavan, Musheerabad, Hyderabad
3. The APSRTC Depot Manager, Eluru Depot, Eluru, West Godavari District

...RESPONDENTS/ RESPONDENTS 1 AND 2

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 vacate the interim stay granted by this Hon'ble court in WP.MP.no. 45580/2014 in WP.No. 36407/2014 on dated. 8th December, 2014 and consequently dismiss the writ petition No. 36407/2014 with costs as the same is devoid of merits, in the interests of justice.

IA NO: 1 OF 2024

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 receive the counter copies on record by allowing the leave petition in the above writ petition.

IA NO: 2 OF 2024**Between:**

Jakkula Vijaya Lakshmi, W/o. Late Jakkula Veeraju, R/o. Flat No. 203, Kunde Apartments Near L.V. Prasad Hospital, R.R. Peta, Eluru

...PETITIONER**AND**

1. Jakkula Mary Puja, W/o. Jakkula Veeraju, age 40 years, Occ: Cooli Vidyanagar, Eluru, West Godavari District.
2. The Andhra Pradesh State Road Transport Corporation, Rep by its Chairman and Managing Director Bus Bhavan, Musheerabad, Hyderabad
3. The APSRTC Depot Manager, Eluru Depot, Eluru, West Godavari District

...RESPONDENTS

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 vacate the interim order dated 08.12.2014 passed in WP.MP.no. 45580 of 2014 in WP.No. 36407 of 2014.

Counsel for the Petitioner: SRI TATA SINGAIAH GOUD**Counsel for the Respondent Nos. 1 & 2: S V RAMANA****Counsel for the Respondent No.3: SRI BATTULA SANJIAH GANDHI****The Court made the following: ORDER**

FRIDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 36407/2014

Between:

Jakkula Mary Puja, W/o. Jakkula Veeraju, age 40 Years ...Petitioner

AND

The Andhra Pradesh State Road Transport Corporation and Others ...Respondents

Counsel for the Petitioner : Sri. Tata Singaiah Goud

Counsel for the Respondent : Sri. Battula Sanjaiah Gandhi

Sri.S.V.Ramana

Sri.Narasimha Rao Davuluri

The Court made the following Order:

1. The petitioner claims to be the legally wedded wife of one Jakkula Veeraju and that the husband of the petitioner died on 07.07.2013 while he was in service of the APSRTC. It is also submitted that the petitioner and Jakkula Veeraju have a daughter from their marriage. It is submitted that the 3rd respondent also claims to be the wife of Jakkula Veeraju.
2. After the demise of the petitioner's husband, the petitioner approached the second respondent, submitted the family member certificate, and sought release of death benefits. The

petitioner also requested that a job be provided to the petitioner's daughter under compassionate appointment.

3. It is submitted that the 2nd respondent has disbursed the entire settlement dues to the 3rd respondent and that an amount of Rs.2,21,756/- towards the SSB and additional monetary benefit are due payable by the 2nd respondent.
4. The learned counsel for the petitioner submits that the Family Member Certificate issued by Tahsildar, Eluru, on 27.11.2013, would clarify that the petitioner is the wife of the deceased employee and that she and her daughter are entitled to all government service benefits.
5. The respondent Nos. 1 and 3 have filed their counters. The official respondent in the counter submits that the deceased employee at the time of his appointment had nominated his mother and later substituted the name of 3rd respondent as a nominee. It is also submitted that the said employee, while in service, had undergone a family planning operation at Eluru, and the names of the 3rd respondent and his children were recorded in the sterilization/family member certificates and also in the bus pass declaration.

6. It is also submitted that the employee submitted revised nominations up to 2002 nominating the 3rd respondent as his wife. There is also no evidence/nominations available in the records of the 1st respondent to consider the petitioner as the wife of the deceased employee. It is submitted that all claims and service benefits were paid to the 3rd respondent.
7. The learned standing counsel for respondents 1 and 2 also submits that the settlement salary bill received from the Accounts Officer is kept ready for payment; however, on account of the stay granted by this Court, the same is withheld.
8. The 3rd respondent in the counter submits that the 3rd respondent is the legally wedded wife, and the same is evident from the service register of the deceased employee. It is submitted that the petitioner cannot step into the shoes of the 3rd respondent when there is no proof of marriage.
9. The short point for consideration of this Court is that, whether this Court can grant the relief as sought for in the writ petition directing respondents 1 and 2 to provide compassionate appointment either to the petitioner or her daughter and a further direction to pay the remaining settlement amount and family pension to the petitioner.

10. Learned counsel for the petitioner places reliance on **Mukesh Kumar and another Vs. The Union of India and others**¹. It was held that the second wife's children would also be entitled to seeking compassionate appointment. The facts dealt with by the Hon'ble Supreme Court in the judgment referred above, the Hon'ble Supreme Court considered whether the conditions imposed by the railway board circular that compassionate appointment cannot be granted to children born from the second wife of the deceased employee is legally sustainable. The Hon'ble Supreme Court has held that the children born to the second wife can claim compassionate appointment. However, the facts of the present case are entirely different. As such, the judgment relied upon by the learned counsel for the petitioner would be of no relevance to the facts of the present case.
11. The petitioner has not submitted any document to substantiate her claim that she is the wife of the deceased employee. The family member certificate furnished by the petitioner, which is issued by the Tahsildar, cannot be considered as a substitute for a legal heir certificate. Heir is defined under Section 3 (f) of The Hindu Succession Act, 1956. The competent authority to issue a legal heir certificate would be the civil Court, wherein the Court

¹ SLP(C) No.18571 of 2018, decided on 24.02.2022

could apply the applicable succession laws such as the Hindu Succession Act or the Indian Succession Act. The civil Court would also go into the evidence adduced by the parties to arrive at a finding. In the absence of any document substantiating the claim of being the second wife of the deceased employee, this Court is not inclined to give a finding on the entitlement of the petitioner or her daughter to claim any service benefits, including compassionate appointment. This Court is not inclined to entertain the writ petition and the same deserves to be dismissed.

12. In the result, the writ petition is dismissed without costs.

Pending miscellaneous petitions, if any, shall stands closed.

//TRUE COPY//

Sd/- M SRINIVAS
ASSISTANT REGISTRAR
Per SECTION OFFICER

To,

1. One CC to Sri Tata Singaiah Goud Advocate [OPUC]
2. One CC to Sri Narasimha Rao Davuluri Advocate [OPUC]
3. One CC to Sri S V Ramana Advocate [OPUC]
4. One CC to Sri Battula Sanjaiah Gandhi Advocate [OPUC]
5. Three CD Copies

TF

HIGH COURT

DATED:29/11/2024

ORDER

WP.No.36407 of 2014



DISMISSING THE W.P., WITHOUT COSTS