HC-KAR

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 1ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO.201454 OF 2023 (S-KSRTC)

BETWEEN:

1. SHAILAJA W/O ASHOK KUMAR,
   AGE: 48 YEARS, OCC: HOUSEHOLD,
   R/O 166, POST ALKOD
   TQ. DEVADURGA, DIST. RAICHUR-584111.

2. PRADEEP S/O ASHOK KUMAR,
   AGE: 27 YEARS OCC: STUDENT (MA)
   R/O 166, POST ALKOD
   TQ. DEVADURG, DIST. RAICHUR-584111.

3. PRAVEEN KUMAR S/O ASHOK KUMAR,
   AGE: 26 YEARS, OCC: STUDENT (BA)
   R/O 166, POST ALKOD,
   TQ. DEVADURGA,
   DIST. RAICHUR-584111.

Digitally signed by SWETA KULKARNI
Location: HIGH COURT OF KARNATAKA

...PETITIONERS

(BY SRI. SANJAY M. JOSHI, ADVOCATE)

AND:

1. THE DIVISION CONTROLLER
   NEKRTC, NOW KKRTC
   BELLARI DIVISION,
   BALLARI-583102.

2. THE MANAGING DIRECTOR
   OFFICE OF THE NEKRTC CENTRAL OFFICE
   NOW KKRTC,

OPP.KBN HOSPITAL MAIN ROAD,
KALABURAGI-585102.

…RESPONDENTS

(BY SRI. SUDHIRSINGH R. VIJAPUR, DSGI)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO I) ISSUE A WRIT ORDER OR DIRECTION IN THE NATURE OF CERTIORARI AND QUASH THE ENDORSEMENT OR RESPONDENT NO.1 AT ANNEXURE-D, VIA., ENDORSEMENT DATED 30.01.2017 UNDER NO.EKARASA/BAVI/SIBBANDI/R2/196/17, ISSUED BY RESPONDENT NO.1, REJECTING THE REQUESTS FOR COMPASSIONATE APPOINTMENT FILED BY THE PETITIONERS, II) ISSUE A WRIT OF MANDAMUS IN THE NATURE OF ORDER OR DIRECTIONS TO THE RESPONDENT NOS.1 AND 2 TO PROVIDE COMPASSIONATE APPOINTMENT TO THE PETITIONER NO.2 SEEKING HIS SENIORITY BASED ON THE DATE OF SUBMISSION OF THE APPLICATION FOR COMPASSIONATE APPOINTMENT, IN THE INTEREST OF JUSTICE AND EQUITY, III) PASS SUCH ORDERS AS THIS HON'BLE COURT MAY DEEM FIT AND NECESSARY.

THIS PETITION, COMING ON FOR ORDERS THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

Petitioners seek following reliefs:

"i) Issue a writ order or direction in the nature of certiorari and quash the endorsement or respondent no.1 at Annexure-D, via., endorsement dated 30.01.2017 under no.EKaRaSa/BaVi/Sibbandi/R2/196/17, issued by respondent no.1, rejecting the requests for compassionate appointment filed by the petitioners,

ii) Issue a writ of mandamus in the nature of order or directions to the respondent nos.1 and 2 to provide compassionate appointment to the petitioner no.2 seeking his seniority based on the date of submission of the application for compassionate appointment, in the interest of justice and equity,

iii) Pass such orders as this Hon'ble Court may deem fit and necessary

2. A perusal of the material on record will indicate that the petitioner No.1 is the wife of late Ashok Kumar, while petitioners Nos.2 and 3 are their children. The aforesaid late Ashok Kumar was working as a conductor bearing badge No.5154 in Raichur Division of the respondent-Corporation, till his demise on 17.08.2011. On 12.01.2012, the petitioners submitted an application seeking appointment on compassionate grounds, in view of the demise of aforesaid Ashok Kumar. During his lifetime, the aforesaid Ashok Kumar had shown the name of the petitioner No.1 as his wife and the petitioner Nos.2 and 3 as his children in all his service records and also nominated the petitioner No.1 to receive all terminal benefits upon his demise, as can be seen from the DEO dated 20.12.2011, in pursuance of which, payments were made towards all financial benefits including provident fund, gratuity, internal group insurance and death cum retirement benefit fund etc., in favour of the petitioners, as evidenced by the documents produced by the

petitioners, which were issued by the respondent-corporation themselves at Annexure-C, C1, C2 and C3. It is the grievance of the petitioners their application dated 12.01.2012 seeking compassionate appointment was rejected by the respondent-corporation on the erroneous/false ground/premise that aforesaid Ashok Kumar had already been married and that the petitioner No.1 was his second wife and the petitioners Nos.2 and 3, who were born out of the wedlock between the aforesaid Ashok Kumar and the petitioner No.1, were not entitled to the benefit of compassionate appointment. Aggrieved by the impugned order at Annexure-D, the petitioners are before this Court by way of the present petition, *inter-alia* contending that despite issuance of legal notice at Annexure-E dated 14.02.2020 and Annexure-F dated 16.11.2022, the respondents are not taking any steps to grant compassionate appointment in favour of the petitioners.

3. *Per contra,* learned counsel for the respondent-corporation would support the impugned order and submits that there is no merit in the petition and the same is liable to be dismissed.

4. Before adverting to the rival contentions, it would be necessary to extract the impugned endorsement at Annexure-D dated 30.01.2017, which reads as under:

"

ಹಿಂಬರಹ

ವಿಷಯ : ಅನುಕಂಪದ ಆಧಾರದ ಮೇಲೆ ನೌಕರಿ ನೀಡುವ ಬಗ್ಗೆ.

ಉಲ್ಲೇಖ: 1) ನಿಮ್ಮ ಮನವಿ ದಿನಾಂಕ:10/01/2002

2) ವಿಭಾಗೀಯ ಭದ್ರತಾ ನಿರೀಕ್ಷಕರ ವರದಿ ದಿ:06/06/2015

3) ರಿಟ್ ಪಿಟಿಷನ್ ಸಂ.40005/2014 (ಎಸ್–ಕೆ.ಎಸ್.ಆರ್.ಟಿ.ಸಿ)

ರಲ್ಲಿ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದ ಆದೇಶ ದಿ:09/02/16

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಉಲ್ಲೇಖದಂತೆ ಶ್ರೀ ಪ್ರದೀಪ ಕುಮಾರ್ ತಂದೆ ದಿ/ಅಶೋಕ ಆದ ನೀವು ಉಲ್ಲೇಖ (1) ರಂತೆ ಅನುಕಂಪದ ಆಧಾರದ ಮೇಲೆ ನೌಕರಿ ಕೋರಿ ಅರ್ಜಿ ಸಲ್ಲಿಸಿರುವ ಸಲ್ಲಿಸಿರುವುದು ಸರಿಯಷ್ಟೇ.

ನಿಮ್ಮ ಕಡತದಲ್ಲಿರುವ ದಾಖಲಾತಿಗಳು ಹಾಗೂ ಉಲ್ಲೇಖ (2) ರಂತೆ ವಿಭಾಗೀಯ ಭದ್ರತಾ ನಿರೀಕ್ಷಕ ರವರು ನೀಡಿರುವ ವರದಿಯಲ್ಲಿ ನೀವು ನಿಮ್ಮ ತಂದೆಯ ಎರಡನೇ ಪತ್ನಿಯ ಮಗನಾಗಿರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ.

ಡಬ್ಲ್ಯೂ.ಪಿ ಸಂಖ್ಯೆ : 40005/2014 (ಎಸ್–ಕೆಎಸ್ಆರ್‌ಟಿಸಿ) ಪ್ರಕರಣದಲ್ಲಿ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ದಿ:09/02/2016 ರಂದು ನೀಡಿರುವ ಆದೇಶವನ್ನು

ಉಲ್ಲೇಖಿಸಿ ಮಾನ್ಯ ಮುಖ್ಯ ಕಾನೂನು ಅಧಿಕಾರಿಗಳು. ಕರಾರಸಾಸಂಸ್ಥೆ, ಕೇಂದ್ರ ಕಛೇರಿ, ಬೆಂಗಳೂರು ರವರು ಪತ್ರ ಸಂ.ಕರಾಸಾ/ಕೇಕ/ಕಾನೂನು/ಸೇವಾ/6152/15–16, ದಿ:15/03/2016 ರ ಪತ್ರದಲ್ಲಿ ಈ ಕೆಳಗಿನಂತೆ ತಿಳಿಸಿದ್ದು, ಸದರಿ ಪತ್ರದಂತೆ ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಕಾನೂನು ಶಾಖೆಯಿಂದ ಪತ್ರ ಸಂ.ಈಕರಸಾ/ಬವಿ /77/2016–17, ದಿ: 21/04/2016 ರಂತೆ ತಿಳಿಸಲಾಗಿರುತ್ತದೆ.

Order dtd:9.2.16 passed in WP.40005/14 which was filed by the first wife and second wife of the deceased workman seeking appointment on compassionate grounds to the son of second wife.

The divisional controller, Kolar Division vide endorsement dtd.22.7.14 had rejected the application of the petitioners for appointment on compassionate grounds on the ground that the deceased employee had entered into second marriage in violation of the regulations of the KSRTC and therefore the children of the second wife whose marriage was illegal were not entitled for appointment on compassionate grounds.

Said endorsement was challenged by the petitioners in WP.40005/14. The Hon'ble High court dismissed the writ petition holding that the endorsement issued by the DC Kolar is justified and does not call for interference. The Hon'ble High Court reported has taken note of the decision of the Karnataka High Court reported in ILR 2006 Kar. 1032 and observed that the second marriage of the deceased employee could not have been performed even if he had sought leave from the employer when such marriage would not be legally permissible under any circumstances.

ಮಾನ್ಯ ಉಲ್ಲೇಖಿದ ನ್ಯಾಯಾಲಯದ ಪ್ರಕರಣದಂತೆಯೇ ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿಯೂ ಸಹ ಮೃತರು ಮೊದಲನೇ ಪತ್ನಿ ಬದುಕಿದ್ದರೂ ಸಂಸ್ಥೆಯ ನಿಯಮಾವಳಿಯನ್ನು ಉಲ್ಲಂಘಿಸಿ, ಎರಡನೇ ಮದುವೆಯಾಗಿರುವುದರಿಂದ, ಎರಡನೇ ಪತ್ನಿಯ ಮಗನಿಗೆ ಅನುಕಂಪದ ಆಧಾರದ ಮೇಲೆ ನೌಕರಿ ನೀಡಲು ಅವಕಾಶವಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಎರಡನೇ ಪತ್ನಿಯ ಮಗನಾದ ನಿಮಗೆ ಅನುಕಂಪದ

ಆಧಾರದ ಮೇಲೆ ನೌಕರಿ ನೀಡಲು ಸಲ್ಲಿಸಿರುವ ಮನವಿಯನ್ನು ಪರಿಗಣಿಸಲು ಬರುವುದಿಲ್ಲ ಎಂದು ಈ ಮೂಲಕ ತಿಳಿಯಪಡಿಸಲಾಗಿದೆ.

ಸಹಿ/-
ವಿಭಾಗೀಯ ನಿಯಂತ್ರಣಾಧಿಕಾರಿ
ಬಳ್ಳಾರಿ ವಿಭಾಗ, ಬಳ್ಳಾರಿ

ಗೆ.

ಶ್ರೀ ಪ್ರದೀಪಕುಮಾರ್ ತಂದೆ ದಿ/ ಅಶೋಕ
ಅಲ್ಕೋಡ (ಅಂಚೆ)-584129
ದೇವದುರ್ಗ (ತಾ!!)
ರಾಯಚೂರು(ಜಿ) ”

5. As can be seen from the impugned endorsement, the only reason assigned by the respondent-corporation in denying/declining to grant compassionate appointment in favour of the petitioners is by stating that the aforesaid Ashok Kumar had earlier been married and the petitioner No.1 being his second wife and the petitioner Nos.2 and 3 being her children from the second marriage, were not entitled to compassionate appointment. In this context, it is relevant to state that necessary/material particulars/details of the alleged first wife of Ashok Kumar are conspicuously absent and not forthcoming in the impugned endorsement. It is also

significant to note that the petitioner No.1 was not only named as a nominee by Ashok Kumar himself during his lifetime for the purpose of receiving all the terminal benefits, but also that the names of the petitioners have been shown by Ashok Kumar himself in all his service records and the petitioners had received the terminal benefits, comprising of provident fund, gratuity, internal group insurance and death cum retirement benefit fund etc., prior to the impugned endorsement. It is also noted out that the details of the alleged first marriage of Ashok Kumar have not been stated nor any material produced by the respondents either prior to the impugned endorsement or before this Court to establish that someone else (unnamed) was married to Ashok Kumar prior to the petitioner No.1 and/or that the petitioner No.1 was the second wife of Ashok Kumar.

6. Under these circumstances, I am of the considered opinion that the impugned endorsement is clearly cryptic, laconic, unreasoned and non-speaking,

without any application of mind and on the erroneous/false premise/reason that Ashok Kumar had already been married prior to his marriage with the petitioner No.1, which is contrary to the material or record, including the service records maintained by the respondent-corporation itself, who by their own conduct had recognized that the petitioner No.1 was the wife of Ashok Kumar as well as a nominee in respect of his terminal benefits and had disbursed the benefits in favour of the petitioners. Consequently, the impugned endorsement deserves to be quashed and the present petition deserves to be disposed of by issuing certain directions.

7. In the result, I pass the following:

ORDER

i. The writ petition is hereby ***allowed***.

ii. The impugned endorsement dated 30.01.2017 at Annexure-D is hereby quashed.

iii. The respondents are directed to grant compassionate appointment in favour of one of the petitioners, after obtaining necessary No Objection Certificate (NOC) from the other petitioners and issue appointment order in favour of such person in accordance with law, within a period of 2 months from the date of receipt of a copy of this order.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

NJ
List No.: 1 Sl No.: 48
CT:SI