



IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

**HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CHIEF JUSTICE
&
HON'BLE MR. JUSTICE NINALA JAYASURYA**

WRIT APPEAL No. 418 of 2020

(Taken up through video conferencing)

Andhra Pradesh Southern Power Distribution
Company Ltd., rep., by its Chief General Manager,
Vijayawada, Krishna District and others.
(which was unbundled/bifurcated from SPDCL in the
Month of December, 2019) and others

.... Appellants/
respondents.

Versus

Kamepalli Ramesh Babu, S/o.late Anjaneyulu,
Aged 28 years, Occ: Un-employee,
R/o.D.No.4-126, Satyanarayanapuram,
60 feet road, Ongole Town & Mandal,
Prakasam District.

.... Respondent/
writ petitioner

Counsel for the appellants : Mr. Y. Nagi Reddy

Counsel for the respondent : Mr. Chakkilam Venkateswarlu

Date of hearing : 19.07.2021

Date of Pronouncement : 31.08.2021

JUDGMENT

(Per Ninala Jayasurya, J)

Assailing the order dated 03.02.2020 passed by the learned Single Judge, the respondents in W.P.No.17055 of 2019 filed the present appeal.

2. For the sake of convenience, the parties are referred to as they were arrayed in the writ petition.

3. The writ petitioner feeling aggrieved by the action of the respondents-appellants in not appointing him on compassionate grounds due to the death of his father one Mr.



Kamepalli Anjaneyulu filed the said writ petition. In the affidavit filed in support of the writ petition, it was stated *inter alia* that the petitioner's mother Smt.Kamepalli Hymavathi is the legally wedded wife of the petitioner's father Anjaneyulu and after the birth of the petitioner's last sister, his father developed an affair with one Eeswaramma and deserted his mother and four sisters, sent them out of matrimonial home about 23 years back when he was at the age of 5 years, keeping the petitioner with him. It was also stated that the petitioner was under the care and custody of his father till he died intestate on 25.01.2019 while in service, that the marriage of the petitioner was performed by him on 20.02.2014 and that the petitioner had been staying with his father till his demise. Claiming that due to the death of his father, he became destitute, having no source of livelihood and unable to maintain his family, he made an application on 02.08.2019 to the respondents seeking compassionate appointment. Since no action was taken pursuant to the said application for appointing him on compassionate grounds, the petitioner approached this Court. In support of his case, the petitioner filed certain documents like study and conduct certificates as also family member certificate issued by the concerned Mandal Revenue Officer.

4. The respondents filed their counter-affidavit through respondent No.4, wherein while denying the various averments made by the writ petitioner, it was *inter alia* stated that the said Eeswaramma made a representation through her Advocate to the effect that she is the legally wedded wife of the said Anjaneyulu and her name is also found in the Service Register of Anjaneyulu as his wife and nominee, that there is no material to show that Hymavathi is the wife of Mr. Anjaneyulu and the petitioner is his son. It was further stated that in view of the representation made by the said Eeswaramma claiming to be the legally wedded wife of Mr. Anjaneyulu, the application of the



petitioner was not considered and that the respondents cannot give compassionate appointment when there is a dispute between the petitioner and others, unless they produce Succession Certificate in this regard issued by the appropriate Court. Accordingly, the respondents prayed that the writ petition be dismissed.

5. The learned Single Judge, after examining the submissions advanced by the respective parties and considering the scope of Section 370 of the Indian Succession Act, disposed of the writ petition by order dated 03.02.2020, *inter alia* holding thus:

“ From a reading of the above Section, it is clear that the Succession Certificate is only be issued for securing payment of debts and securities and such other like movable properties, particularly when there is a doubt. This is a case of compassionate appointment. The documents submitted as rightly pointed out by the learned counsel for the petitioner start from 2005 onwards. All these documents uniformly show that the petitioner is the son of Anjaneyulu. Lastly, it is also clear from the submission made by the learned counsel for the petitioner merely because a lady claimed that she is the wife of Anjaneyulu, the petitioner’s claim for compassionate appointment cannot be kept in abeyance.

In that view of the matter, this Court is of the opinion that the petitioner is entitled to an order as prayed for. The respondents are directed to consider the case of the petitioner in line with the application dated 02.08.2019 along with the documents enclosed and decide whether he is otherwise eligible under the scheme for compassionate appointment and be absorbed into the service of the respondents. It is made clear that mere claim made by Eeswaramma or the furnishing the Succession Certificate are not grounds enough to reject the claim of the petitioner. If he is otherwise eligible, his case should be considered and the matter should be disposed of within a period of four (4) weeks from the date of receipt of a copy of this order.”



6. Challenging the said order of the learned Single Judge, the respondents-appellants filed the writ appeal.

7. Heard Mr. Y. Nagi Reddy, learned counsel appearing for the appellants and Mr. Chakkilam Venkateswarlu, learned counsel appearing for the respondent-writ petitioner.

8. During the pendency of the appeal, I.A.No.1 of 2021 was filed to receive some documents, which according to the appellants, could not be filed along with the appeal. Pursuant to the direction of the Court dated 24.03.2021, I.A.No.3 of 2021 was filed by the appellants-respondents to receive certain documents including relevant pages from the Service Register of the petitioner's father Anjaneyulu, as additional material papers. The said applications are not opposed and hence the same are allowed. The writ petitioner-respondent filed I.A.No.2 of 2021 seeking a direction to receive a document i.e., declaration dated 03.04.2009 stated to have been submitted by the petitioner's father to the appellant-department. However, this Court is not inclined to receive the same as it does not bear the signature of the concerned official and therefore the said I.A., is dismissed.

9. Mr. Y. Nagi Reddy, learned counsel for the appellants-respondents contends that the order under appeal is unsustainable in the facts and circumstances of the case. He submits that there are rival claims with regard to death benefits etc., between the writ petitioner-respondent and one Smt. Eeswaramma claiming to be legally wedded wife of the deceased Anjaneyulu, that the entry in the Service Register of the said Anjaneyulu refers to Smt. Eeswaramma as wife and nominee of Mr. Anjaneyulu and further that in the light of the claim and counter claim as legal heirs by the writ petitioner and the said



Eeswaramma, the authorities are justified in not considering the case of the writ petitioner, in the absence of declaration by a competent Civil Court and therefore they cannot be found fault with for insisting production of Succession Certificate to consider the claim of the writ petitioner-respondent. Accordingly, he submits that the order under appeal is liable to be interfered with.

10. *Per contra*, learned counsel for the writ petitioner-respondent contends that the documents filed on behalf of the writ petitioner-respondent would clearly disclose that the writ petitioner is the son of the said Anjaneyulu and the appellants are required to consider his case for compassionate appointment in view of the death of Mr.Anjaneyulu and that the order passed by the learned Single Judge is well considered and warrants no interference.

11. On a careful consideration of the rival submissions and perusing the material on record, this Court finds that prior to the filing of the writ petition, there was exchange of notices between the respondent-writ petitioner and his family members(sisters) on one side and the said Smt. Eeswaramma and her son on the other side, dated 11.03.2019 and 28.03.2019, respectively. The appellants also got issued reply notice dated 05.04.2019 in respect of the claims made by the respective parties categorically stating that in view of the disputes/rival claims, they are required to furnish a Certificate from the competent Court of Law, so that their claims can be considered. Despite the above said position, the writ petitioner, for the reasons best known to him, did not choose to implead the said Eeswaramma as a party to the writ petition, which is fatal. Be that as it may.



12. The learned Single Judge while dealing with the issue of submission of Succession Certificate, opined, *inter alia*, to the effect that the same is required for securing payment of debts, securities and other movable properties, but not for the purpose of securing compassionate appointment. As pointed out by the learned Single Judge, it is issued to establish the validity and legality of the legal heir and confer authority in respect of assets and securities of the deceased person. Therefore, this Court finds no valid reason to interfere with the findings of the learned Single Judge in this regard.

13. However, the direction of the learned Single Judge, with reference to the consideration of the writ petitioner's case for compassionate appointment in exclusion of Smt. Eeswaramma, in the opinion of this Court is not just, more particularly in view of the rival claims made by the respective parties with regard to death benefits consequent to the demise of Mr. Anjaneyulu as evident from the notices referred to supra and the entries in the Service Register. Though the order under appeal was obtained without impleading proper and necessary parties and the writ petition is liable to be dismissed for non-joinder of necessary parties, this Court is of the considered view that ends of justice would be met by modifying the order of the learned Single Judge suitably.

14. Accordingly, the appellants are directed to issue appropriate notices to the said Smt. Eeswaramma and others, if any, at the time of examining the claim of the writ petitioner-respondent for compassionate appointment and the matter shall be considered with reference to the applicable rules/regulations/guidelines. Needless to state, if any of the parties secure 'Legal Heir Certificate' from a competent Civil Court, the same shall be duly considered.



15. In the result, the appeal is allowed in part to the extent indicated in the above terms. No order as to costs. Pending miscellaneous applications, if any, shall stand dismissed.

ARUP KUMAR GOSWAMI, CJ

NINALA JAYASURYA, J

BLV



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HCI & NIS,J
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31st day of August, 2021

BLV