

A.P.S.R.T.C. and Others

Vs

Kaiser Begum

Civil Appeals Nos. 8948

(Sujata V. Manohar, D. P. Wadhwa JJ)

19.10.1997

ORDER

1. Leave granted in both the matters.
2. The facts in both the appeals are similar. For the sake of convenience we are referring to the facts in CA arising from SLP (C) No. 16621 of 1997.
3. Husband of the respondent, who was a driver with the appellant Andhra Pradesh State Road Transport Corporation, died in harness on 27-10-1992. On 11-1-1994 the respondent submitted an application for appointment as an Attender on compassionate grounds. Under circular dated 13-7-1988 issued by the Corporation, a provision is made for considering spouse/children of employees who have died in harness for recruitment on compassionate grounds. The circular prescribes minimum qualifications for the candidates seeking appointment on compassionate grounds. In clause 1 of the circular it is further provided that the spouse or one child of an employee who has died in harness can be considered for appointment if (i) none of the children or spouse of the employee who has so died, is already employed; (ii) the candidate is in possession of the requisite qualifications as prescribed in Recruitment Regulations and (iii) there is a sanctioned vacancy. Clause 5 of the circular further provides that there are no vacancies of office boys/girls/or sweeper and hence cases of spouse/children of an employee who has died in harness shall not be considered for appointment to the post of sweeper or office boy or office girl. Clause 10 provides that additional monetary benefits will be sanctioned wherever it is not possible to provide employment to the spouse/children of an employee who has died in harness on or after 13-8-1981.
4. The respondent had applied for the post of office boy/girl (Attender) for which the circular expressly states that there are no vacancies. The appellants have also relied upon various other circulars, the last one of them being a circular dated 31-7-1997 which extends the ban imposed on direct recruitment except to the posts of Driver Grade II and Conductor Grade II and provides that for recruitment to other posts specific prior written approval of the Vice-Chairman and Managing Director will be required. Since in view of these circulars, it was not possible for the appellants to offer employment to the respondent, the appellants had offered, under clause 10 of the circular dated 13-7-1988, additional monetary benefits to the respondent to be paid in the manner prescribed under their scheme.
5. The respondent, however, did not accept the additional monetary compensation and filed the present writ petition in which the High Court has directed that the respondent should create a post, if there is no vacant post and appoint the respondent as Attender within 3 months from the date of the order. The High Court could not have given such directions which are contrary to the existing

scheme of providing appointments on compassionate grounds. The rights of the respondent are governed by the scheme which the employer may provide for appointment on compassionate grounds.

6. The appeals are, therefore, allowed and the impugned orders are set aside. The appellants state that they are ready and willing to give additional monetary compensation to the respondent in both the appeals in accordance with their scheme. The same shall be paid to the respondent in accordance with the relevant rules of the scheme in this connection.