

CASE NO.:
Appeal (civil) 1616 of 2008

PETITIONER:
A.P.S.R.T.C., Musheerabad & Ors

RESPONDENT:
Sarvarunnisa Begum

DATE OF JUDGMENT: 27/02/2008

BENCH:
P.P. Naolekar & Lokeshwar Singh Panta

JUDGMENT:
J U D G M E N T

CIVIL APPEAL NO 1616 OF 2008
(arising out of Special Leave Petition (Civil) No.17587 of 2005)

P.P. NAOLEKAR, J.:

1. Leave granted.
2. The respondent's husband died in harness while in service of the Andhra Pradesh State Road Transport Corporation (for short "the Corporation"). The respondent-widow submitted an application expressing her willingness to accept additional monetary benefit in lieu of employment as per the Scheme. The appellant-Corporation gave additional monetary benefit of Rs.1,00,000/- to the respondent in lieu of her not claiming any employment in the Corporation. Subsequently, the respondent made a request that the additional monetary benefit may be taken back and to provide her employment on compassionate grounds. When the Corporation refused, she filed a writ petition in the High Court, claiming compassionate appointment. Learned Single Judge of the High Court held that merely because additional monetary benefits are given to the respondent, her case for appointment on compassionate grounds cannot be rejected, and gave direction to consider the case of the respondent for appointment under "Bread Winner Scheme". Aggrieved by the order of the Single Judge, the appellant-Corporation filed writ appeal. Although there was no appeal filed by the respondent, the Division Bench of the High Court modified the order of the Single Judge to the extent of directing appointment of the respondent to the post of Conductor/Attender, whichever available, within a period of two months from the date of receipt of the copy of the order and for refund of the amount of Rs.1,00,000/- by the respondent on such appointment. This order is under challenge before us.
3. This Court time and again has held that the compassionate appointment would be given to the dependent of the deceased who died in harness to get over the difficulties on the death of the bread-earner. In Umesh Kumar Nagpal vs. State of Haryana and Others, (1994) 4 SCC 138, this Court has held as under:

"The whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the

family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest post in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency.

Offering compassionate employment as a matter of course irrespective of the financial condition of the family of the deceased and making compassionate appointments in posts above Classes III and IV, is legally impermissible."

(Headnote-C)

4. In the present case, the additional monetary benefit has been given to the widow apart from the benefits available to the widow after the death of her husband to get over the financial constraints on account of sudden death of her husband and, thus, as a matter of right, she was not entitled to claim the compassionate appointment and that too when it had not been brought to the notice of the Court that any vacancy was available where the respondent could have been accommodated by giving her a compassionate appointment. That apart, the Division Bench of the High Court has committed an error in modifying the direction of the Single Judge by directing the Corporation to appoint the respondent when no appeal was preferred by the respondent challenging order of the Single Judge.

5. For the aforesaid reasons, the appeal is allowed and the orders of the High Court are set aside.