

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT PETITION (AT) No.2139 OF 2021

Between:

Smt. K. Hamakshi, W/o. Late H. Vannurappa,
Aged about 30 Years, Unemployee,
R/o.D.No.10-3-363, Kolmi Bazar,
Rayadurg, Anantapur District.

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Petitioner

Versus

State of Andhra Pradesh,
Rep. by its Principal Secretary,
Municipal Administration and Urban
Development Department, Secretariat,
Velagapudi, Amaravathi,
Guntur District and 3 others.

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Respondents

DATE OF ORDER PRONOUNCED : 17.03.2025

SUBMITTED FOR APPROVAL:

HON'BLE SMT. JUSTICE SUMATHI JAGADAM

1. Whether Reporters of Local Newspapers
may be allowed to see the order? Yes/No
2. Whether the copy of order may be
marked to Law Reporters/Journals? Yes/No
2. Whether Her Lordship wishes to see
The fair copy of the Order? Yes/No

JUSTICE SUMATHI JAGADAM

*** HON'BLE SMT. JUSTICE SUMATHI JAGADAM**

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Development Department, Secretariat,
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Respondents

! Counsel for the Petitioner : Sri D. Balakishan Rao

^ Counsel for the Respondents : Smt. Sireesha Rani Vallabhaneni,
Standing Counsel for Municipalities

Learned Government Pleader for
Services-IV

> Head Note:

? Cases referred:

1. W.P (S) No.5051/ 2014, Dt.18.01.2016
2. 2012 (1) WLC (Raj.) 431
3. 2011 SCC OnLine All 152
4. 2024-AHC-49953-DB
5. 2022 SCC OnLine All 1972
6. S.B. Civil W.P. No. 2291/ 2022,
Dt. 27.07.2023 of High Court of Rajasthan at Jodhpur

This Court made the following:

APHC010509612021



**IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)**

MONDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

3459

PRESENT

THE HON'BLE SMT. JUSTICE SUMATHI JAGADAM

WRIT PETITION (AT) No.2139 OF 2021

Between:

Smt. H. Kamakshi --- Petitioner
and

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Municipal Administration and
Urban Development Department,
Secretariat, Velagapudi,
Guntur District and 3 others --- Respondents

Counsel for the petitioner : Sri D. Balakishan Rao

Counsel for the respondents : Smt. Sireesha Rani Vallabhaneni,
Standing Counsel for Municipalities

Learned Government Pleader for
Services-IV

The Court made the following **ORDER**:

The Writ Petition is filed by the petitioner seeking to call for the records relating to G.O.Ms.No.612, General Administration (Services-A) Department, dated 30.10.1991, insofar as the policy relating to compassionate appointment being constitutionally impermissible to the

extent of exclusion of daughter-in-law (widowed) is concerned and its consequential Notice in ROC No.582/2016/F1, dated 05.10.2016, issued by the 3rd respondent and quash the same as illegal, arbitrary, discriminatory, impermissible and subversive of Articles 14, 15 and 16 of the Constitution of India and also contrary to law and consequently include the category of daughter-in-law (widowed) in the fray of consideration by the State Government for providing compassionate appointments along with other categories and direct the respondents to consider the case of the petitioner for providing compassionate appointment consequent on the death of her mother-in-law viz., S. Kullayamma P.H. Worker, Rayadurg Municipality, Anantapuramu District.

Brief facts of the case:

2. The petitioner is the wife of S. Kullayamma's elder son, who passed away from a heart attack on August 16, 2005. While working as a P.H. Worker in Rayadurg Municipality, the petitioner's mother-in-law died on November 12, 2011. The petitioner's mother-in-law had two sons, both of whom predeceased her. The petitioner has two sons and a daughter who depends on the income derived from her mother-in-law.

3. The petitioner states that after her mother-in-law's death on 12.11.2011, the petitioner has submitted a representation on 14.02.2012,

requesting an appointment on compassionate grounds. Furthermore, the petitioner asserts that the younger son's wife of her mother-in-law has issued a No Objection Certificate to facilitate the compassionate appointment for the petitioner. As the 3rd respondent has not acted on her representation, dated 14.02.2012, the petitioner submitted another representation to the Government. Subsequently, the 3rd respondent issued proceedings in ROC No.582/2016/F1, dated 05.10.2016, informing the petitioner that, according to the orders issued in G.O.Ms.No.687, dated 03.10.1977, the compassionate appointment can be provided only to a wife, son, or unmarried daughter; therefore, it is not feasible to grant a compassionate appointment to the petitioner in place of her mother-in-law. The present Writ Petition is filed to question the impugned notice that rejected the petitioner's case for compassionate appointment.

4. Learned counsel for the petitioner argues that a daughter-in-law becomes an integral part of her husband's family after marriage. G.O.Ms.No.687, dated 03.10.1977, states that compassionate appointments can only be provided to the wife, son, or unmarried daughter of the deceased government servant.

5. Later, the Government issued G.O.Ms.No.612, dated 30.10.1991, which included certain categories beyond wife, son, or unmarried daughter, such as brother, sister, and widowed daughter. These

categories were included as preferential categories for providing compassionate appointments because they were also family members. However, the daughter-in-law was not considered part of the family. After marriage, the daughter-in-law becomes an integral part of the family, requiring similar support as that provided to sons, daughters, or married daughters.

6. The primary purpose of extending compassionate appointment benefits to the dependents of deceased Government Servants is to relieve the family from distress and destitution caused by the death of the family's sole breadwinner. The mother-in-law of the petitioner lost her husband and two sons before her death. The petitioner is her elder daughter-in-law and her family consists of her sons and daughter, who depended entirely on her mother-in-law's income. Aside from that income, they have no other earning family members or properties. Her husband passed away due to a heart attack on 16.08.2005. The learned counsel for the petitioner has relied on a un-reported decision by the High Court of Chhattisgarh at Bilaspur in **Smt. Duliya Bai Yadav v. State of Chhattisgarh**¹ as well as the decision of the Rajasthan High Court in **Smt. Pinki v. State of Rajasthan and others**². The relevant paragraphs of the decisions are extracted hereunder:

¹ W.P (S) No.5051 of 2014, Dt.18.01.2016

² 2012 (1) WLC (Raj.) 431

“20. The Allahabad High Court in the matter of ***U.P. Power Corporation Limited v. Smt. Urmila Devi*** in **Special Appeal No.1026/2003** decided on 27.01.2011 has clearly held that daughter-in-law has rightly to be considered for appointment on compassionate ground and observed as under:

“We must, however, note one feature of the definition of the word ‘family’ as generally contained in most Rules. The definition of ‘family’ includes wife or husband, sons, unmarried and widowed daughters, and if the deceased was an unmarried Government servant, the brother, unmarried sister and widowed mother dependant on the deceased Government servant. It is therefore, clear that a widowed daughter in the house of her parents is entitled for consideration on compassionate appointment. However, a widowed daughter-in-law in the house where she is married, is not entitled for compassionate appointment as she is not included in the definition of ‘family’. It is not possible to understand how a widowed daughter in her father’s house has a better right to claim appointment on compassionate basis than a widowed daughter-in-law in her father-in-laws’s house. The very nature of compassionate appointment is the financial need or necessity of the family. The daughter-in-law on the death of her husband does not cease to be a part of the family. The concept that such daughter-in-law must go back and stay with her parents is abhorrent to our civilized society. Such daughter-in-law must, therefore, have also right to be considered for compassionate appointment as she is part of the

family where she is married and if staying with her husband's family. In this context, in our opinion, arbitrariness, as presently existing, can be avoided by including the daughter-in-law in the definition of 'family'. Otherwise, the definition to that extent, prima facie, would be irrational and arbitrary. The State, therefore, to consider this aspect and take appropriate steps so that a widowed daughter-in-law like a widowed daughter, is also entitled for consideration by way of compassionate appointment, if other criterion is satisfied."

21. The Rajasthan High Court in the matter of ***Smt. Pinki v. State of Rajasthan and others*** {2012 (1) WLC (Raj.) 431} has held that widowed daughter-in-law of the deceased Government servant is entitled for compassionate appointment and observed as under:

"16. The question now arise that if the law making authority was aware about the position of "widowed daughter-in-law" then why in the category of dependents under Rule 2(c) of the Rules of 1996, she has not been placed in explicit? To resolve this knot, a look on the relations expressly referred in the definition of dependents is desirable. The relations of spouse, son, adopted son, unmarried or adopted unmarried daughter in no way can include the relation of "widowed daughter-in-law", however, the term "widowed daughter" appears to be quote wide and that may included "widowed daughter-in-law" for the purpose of these rules.

17. If the rule makers were intending to exclude “widowed daughter-in-law” from the category of dependents, then they would have include “widowed daughter” in the category of dependents, employment of whom makes appointment on compassionate grounds inadmissible under the Rules of 1996, but it has not been done. Meaning thereby, a “widowed daughter” is also a widowed daughter-in-law” who is supposed to serve her in-laws and children. Thus, it appears that the term “widowed daughter-in-law” is part of “widowed daughter”.

22. An apprehension may be there that “widowed daughter-in-law” may not support her in-laws family or dependents of the deceased government servant, but such apprehension is totally ill-founded. The Rules of 1996 clearly mentions that while making appointment on compassionate grounds concurrence of all other dependents of a deceased government servant is must. The Rule 5(b) of the Rules of 1996 also takes all necessary care of such eventualities.

23. The upshot of the consideration is that “widowed daughter-in-law” is a dependant of a government servant as defined under Rule 2(c) of the Rules of 1996. As such, this petition for writ deserves acceptance. Hence, the same is allowed. The decision of the respondents for not giving appointment to the petitioner on compassionate grounds as per the Rules of 1996 is declared illegal. The respondents are directed to appoint the

petitioner as a Class-IV employee in accordance with the provisions of the Rules of 1996, on or before 14th October, 2011.”

7. Learned counsel for the petitioner prayed to allow the Writ Petition.
8. The 3rd respondent has filed a counter-affidavit reiterating the contentions raised in the speaking orders and submits that the petitioner has been working as a contract laborer in Rayadurg Municipality since 2008. Additionally, it is noted that the government has issued instructions regarding the scheme for compassionate appointments for deceased government employees, as outlined in G.O.Ms.No.687, dated 03.10.1977, and G.O.Ms.No.612, dated 30.10.1991. Nowhere does it state that a daughter-in-law qualifies as one of the preferential categories for consideration or for receiving compassionate appointments; therefore, the application was rightly rejected, and it is requested that the Writ Petition be dismissed.
9. Heard the learned counsel for the petitioner, learned Assistant Government Pleader for Services-I and learned Standing Counsel for Municipality appearing on behalf of the respondent's and perused the material available on record.
10. The present Writ Petition was initially filed before the Andhra Pradesh Administrative Tribunal in Hyderabad, which assigned it the

number O.A. No.1908 of 2018. After being transferred to this High Court, it was renumbered as Writ Petition (AT) No.2139 of 2021.

11. Initially, on 12.09.2018, the Tribunal has passed the following *interim* order:

“Pending further orders, the respondents are directed to consider the case of the applicant for compassionate appointment without reference to the proceedings in Rc.No.582/2016/F1, dated 05.10.2016, issued by the 3rd respondent.”

12. Compassionate appointments aim to swiftly support the bereaved family of a government employee who dies in service. This assistance allows for the direct appointment of a son, daughter, or spouse without needing to go through the employment exchange process, adhering to the specific conditions outlined in relevant orders issued periodically as part of social security measures. When the government recognizes a son or daughter of the deceased government employee for compassionate appointment, the daughter-in-law, while not traditionally classified as family, will also be considered for compassionate grounds due to her integral role within the family.

13. Upon the death of her husband, a daughter-in-law does not stop being part of the family and, therefore, has the right to be considered for a compassionate appointment, as she remains a member of the family into

which she is married. When a married daughter becomes a daughter-in-law through her marriage and enters her in-laws' household, she should be considered for a compassionate appointment under the definition of family. The same benefit can be extended to the daughter-in-law along similar lines.

14. After a daughter gets married, she becomes an integral part of the family she joins. Conversely, the daughter-in-law, who enters the family, becomes a vital member and has a more substantial right to request compassionate appointments to ensure the welfare of her children. In similar circumstances, a Division Bench of the Allahabad High Court in ***U.P. Power Corporation Limited v. Smt. Urmila Devi***³ held as follows:

“It is not possible to understand how a widowed daughter in her father's house has a better right to claim appointment on compassionate basis than a widowed daughter-in-law in her father-in-law's house.”

15. In light of the above, the impugned proceedings in ROC No. 582/2016/F1, dated October 5, 2016, are set aside.

16. A Division Bench of the Allahabad High Court in ***Vibha Tiwari v. State of U.P. and 2 others***⁴, at Para No.8 has considered the judgment

³ 2011 SCC OnLine All 152

⁴ 2024-AHC-49953-DB

of ***U.P. Power Corporation Limited*** (3rd supra) and held as follows at

Para Nos.9 and 13:

“8. We must, however, note one feature of the definition of the word 'family' as generally contained in most Rules. The definition of 'family' includes wife or husband; sons; unmarried and widowed daughters; and if the deceased was an unmarried government servant, the brother, unmarried sister and widowed mother dependant on the deceased government servant. It is, therefore, clear that a widowed daughter in the house of her parents is entitled for consideration on compassionate appointment. However, a widowed daughter-in-law in the house where she is married, is not entitled for compassionate appointment as she is not included in the definition of 'family'. It is not possible to understand how a widowed daughter in her father's house has a better right to claim appointment on compassionate basis than a widowed daughter-in-law in her father-in-law's house. The very nature of compassionate appointment is the financial need or necessity of the family. The daughter-in-law on the death of her husband does not cease to be a part of the family. The concept that such daughter-in-law must go back and stay with her parents is abhorrent to our civilized society. Such daughter-in-law must, therefore, have also right to be considered for compassionate appointment as she is part of the family where she is married and if staying with her husband's family. In this context, in our opinion, arbitrariness, as presently existing, can be avoided by including the daughter-in-law in the definition of 'family'. Otherwise, the definition to that extent, prima facie, would be irrational and arbitrary. The State, therefore, to consider this aspect and take appropriate steps so that a widowed daughter-in-law like a

widowed daughter, is also entitled for consideration by way of compassionate appointment, if other criterion is satisfied."

.....

.....

"13. As per the custom of Indian Society, daughter-in-law is also supposed to be treated as a daughter as she is also an integral part of the family. The main purpose of extending the benefit of compassionate appointment to the dependents of a deceased government servant is to relieve the family from distress and destitution on account of death of sole bread earner of the family. Even in the instant case, an exceptional situation has been created as though the husband of the petitioner is alive but he is having more than 75% disability and he is unable to earn/work, which requires a liberal construction of the meaning under Section 2(c) of the Rules, 1974."

(emphasis supplied)

17. In ***Sharma Devi v. State of U.P. through Its Additional Chief Secretary, Food and Civil Supply and others***⁵, it was held as follows at Para No.7:

"7. Although the aforesaid Full Bench judgment pertains to right of a widowed daughter in law and in the present case the petitioner is not a widowed daughter in law but in the considered opinion of this Court, the same would not have any difference whatsoever and the rigor of the Full Bench would be applicable in the present case as well. The reason for the said opinion of this

⁵ 2022 SCC OnLine All 1972

Court is self evident from the reasoning indicated in the Full Bench decision itself in which it has been stated that the daughter in law upon death of her husband does not cease to be part of family. Applying the same logic in the case of daughter in law which has not been widowed, it can be seen that the later would have a better claim than a widowed daughter in law since she continues to be a part of family as much as a widowed daughter in law. As such no distinction can be carved out between a daughter in law whose husband is alive and a widowed daughter in law.”

(emphasis supplied)

18. In S.B. Civil Writ Petition No. 2291 of 2022, dated 27.07.2023, from the High Court of Judicature for Rajasthan at Jodhpur, the court has rescued the petitioner who lost her husband, mother-in-law, and father-in-law within a short time and observed that the petitioner is in a stronger position than the claim of the daughter, directing the respondent to appoint the petitioner on compassionate grounds. It was held as follows at Para No. 5:

“.....there cannot be a more distressful condition as the petitioner is the sole person who has to maintain herself and two minor daughters since all other family members *i.e.* the husband of petitioner, mother-in-law, and father-in-law of the petitioner, have passed away within a short interval of time.”

19. Therefore, considering the facts and circumstances of the case and the law laid down in the judgments mentioned above, the Writ Petition is

allowed setting-aside the proceedings in ROC No.582/2016/F1, dated 05.10.2016, issued by the 3rd respondent. Further, the respondents are directed to reconsider the case of the petitioner for compassionate appointment, afresh, and pass appropriate orders within a period of two (2) months from the date of receipt of a copy of this order. No order as to costs.

Consequently, Miscellaneous Applications pending, if any, shall stand closed.

JUSTICE SUMATHI JAGADAM

Date:17.03.2025
DSH