

THE SECRETARY, A.P. SOCIAL WELFARE RESIDENTIAL  
EDUCATIONAL INSTITUTIONS

v

SHRI PINDIGA SRIDHAR AND ORS.

MARCH 19, 2007

[H.K. SEMA AND D.K. JAIN, JJ.]

*Service Law:*

*Appointment—Compassionate appointment—Appointment sought admittedly concealing certain facts—Appointment granted—Termination on the ground that the same was secured by suppressing the facts—Single Judge of High Court upholding the order—Division Bench of High Court set aside the order of termination on the ground that before passing it, show cause notice was not given to the employee and hence violative of principles of Natural Justice—On appeal, held: Department was justified in terminating the services of the employee—In view of the admitted facts of suppression, there was no necessity to issue show cause notice—In the facts of the case, principles of Natural Justice were not violated.*

*Principles—Principles of Natural Justice—Applicability—Held: The principle cannot be applied in a straight jacket formula- It depends on facts and circumstances of each case.*

**Respondent applied for compassionate appointment with the appellant Institution after death of his father in harness. He was appointed on compassionate ground. At the time, he had applied for the appointment, his mother was in service and when he joined the service, his wife was in service. These facts are admitted by the respondent. His appointment was terminated on the ground that the same was secured by suppressing the facts. He challenged the order of termination in Writ Petition and the same was dismissed by Single Judge of High Court Division Bench of High Court in writ Appeal, set aside the order of Single Judge holding that the termination order violated the principles of Natural justice as the respondent was not given show cause notice, before the same was passed. Hence the present appeal.**

**A** Allowing the appeal, the Court

**HELD: 1.** When the respondent made an application for appointment on compassionate ground his mother was in service and his wife were in services when he was appointed. Therefore, the respondent secured the appointment on compassionate ground by suppressing this fact. In the aforesaid facts and circumstances, the department was justified in terminating the services of the respondent. [Paras 7 and 8] [147-E-F-G-H; 148-A-B-C-D]

**B**

**2.1.** Principles of natural justice cannot be applied in a straight jacket formula. Its application depends upon the facts and circumstances of each case. To sustain the coin plaint of the violation of principles of natural justice, one must establish that he was prejudiced for non-observance of the principles of natural justice. [Para 9] [148-E]

**C****D**

**2.2.** In the present case, the fact on which the appellant terminated the services of the respondent, appointed on compassionate ground was admitted by the respondent himself that when he applied for the post on compassionate ground his mother was in service. So also when he secured the appointment his wife was in service. These facts clearly disclose that the appointment on compassionate ground was secured by playing fraud. Fraud clocks everything. In such admitted facts, there was no necessity of issuing show cause notice to him. The view of the High Court that termination suffers from the non-observance of the principles of natural justice is therefore, clearly erroneous. In the given facts of this case, no prejudice whatsoever has been caused to the respondent. The respondent could not have improved his case even if a show cause notice was issued to him. [Para 9] [148-E-F-G-H; 149-A]

**E****F**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1470 of 2007.

From the Final Judgment and Order dated 23.08.2005 of the High Court of Judicature, Andhra Pradesh at Hyderabad in Writ Appeal No. 356 of 2005.

Roy Abraham, Seema Jain and Himinder Lal for the Appellant.

**G**

S. Chandra Shekhar, Shanmuga Patro, Sanjay Kumar Singh, Manoj Saxena and T.V. George for the Respondents.

The Judgment of the Court was delivered by

**H**

H.K. SEMA, J. 1. Leave granted.

2. Heard the parties. A

3. The challenge in this appeal is to the order dated 23.8.2005 passed by the Division Bench of High Court of Andhra Pradesh in Writ Appeal No.356 of 2005. This appeal is preferred by the Secretary, Andhra Pradesh Social Welfare Residential Education Institutions. B

4. Briefly stated the facts are as follows:-

5. The father of the respondent late Sri P. Andhru was employed in the Government of Andhra Pradesh as a Hostel Warden. He died in harness on 31.3.1996. The respondent being one of the sons of late Sri P. Andhru applied for appointment on compassionate ground by his application dated 6.5.1996. He was appointed as a typist on 22.11.2002 on compassionate ground. His appointment on compassionate ground came to be terminated by an order dated 15.3.2003 on the ground that he secured the appointment by suppressing the facts. He unsuccessfully challenged the order of termination before the learned Single Judge. However, on appeal being preferred by him the Division Bench of the High Court upset the well-merited order of the learned Single Judge, on the sole ground that the order of termination violates the principles of natural justice as no show cause notice has been given to the respondent before the impugned order was issued. Hence the present appeal by special leave. C D E

6. The undisputed facts are:

7. Late Sri P. Andhru was survived by wife Smt. P. Santhosamma and two sons namely Sri P. Sridhar (respondent herein) and Sri P. Srikanth. At the time when the respondent made an application for appointment on compassionate ground, the mother of the respondent (Smt. P. Santhosamma) was employed as a teacher in Z.P. High School, Suryapet. The wife of the respondent Sirisha was appointed as Extension Officer in the Rural Development on 3.8.1997 and later on, she was promoted as Mandal Parishad Development Officer. The respondent as earlier noticed was appointed as a typist on compassionate ground on 22.11.2002. The aforesaid fact was conceded by the counsel appearing for the respondent. The fact, therefore, reveals that when he made an application for appointment on compassionate ground on 6.5.1996, the mother of the respondent was employed as a teacher in Z.P. High School, Suryapet, which fact was not disclosed by him in his application dated 6.5.1996. It is also clear that the wife of the respondent was in service as a Mandal Parishad Development Officer, when the respondent F G H

A was appointed as a typist on compassionate ground on 22.11.2002.

8. The respondent vide his application-dated 6.5.1996, applied for appointment on compassionate ground as dependent of late Sri P. Andhru. The respondent attached non-employment certificate with his application for appointment on compassionate ground. The certificate reads:-

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C  
"This is to certify that Shri/Smt./Kum. P. Sreedhar son/wife/daughter of Shri/Smt. Late P. Andhru R/o Suryapat is not employed in any Government or Quasi-Government Departments/Undertaking/ Corporation or any Private Organisation. *No any other member of their family is employed in any Dept.,*

(Emphasis supplied)

D  
It clearly shows that the respondent did not disclose that his mother was in service as a teacher in Z.P. High School, Surpapat. In our view, therefore, the respondent secured the appointment on compassionate ground by suppressing this fact. In the aforesaid facts and circumstances, the department was justified in terminating the services of the respondent by the impugned order dated 15.3.2003.

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G  
H  
9. The High Court on the basis of the erroneous view upset the well-merited judgment of the learned Single Judge. By now, it is well settled principle of law that the principles of natural justice cannot be applied in a straight jacket formula. Its application depends upon the facts and circumstances of each case. To sustain the complaint of the violation of principles of natural justice one must establish that he was prejudiced for non-observance of the principles of natural justice. In the present case, the fact on which the appellant terminated the services of the respondent appointed on compassionate ground was admitted by the respondent himself that when he applied for the post on compassionate ground by its application dated 6.5.1996, his mother was in service. So also when he secured the appointment by an order dated 22.11.2002 his wife was in service since 3.8.1997 as Extension Officer in Rural Development and later on promoted as Mandal Parishad Development Officer at the time when he was appointed on compassionate ground. These facts clearly disclose that the appointment on compassionate ground was secured by playing fraud. Fraud clocks everything. In such admitted facts, there was no necessity of issuing show cause notice to him. The view of the High Court that termination suffers from the non-observance of the principles of natural justice is, therefore, clearly erroneous. In our view,

in the given facts of this case, no prejudice whatsoever has been caused to the respondent. The respondent could not have improved his case even if a show cause notice was issued to him. A

10. In the result, the order of the Division bench of the High Court dated 23.8.2005, is accordingly set aside. The appeal is allowed. The order of the learned Single Judge is restored and writ petition of the respondent stands dismissed. No costs. B

K.K.T.

Appeal allowed.