



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF SEPTEMBER, 2023

PRESENT

THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT APPEAL NO. 891 OF 2023 (S-RES)

BETWEEN:

MRS MEGHA J,
D/O. LATE SRI. K. JAYASHANKAR,
AGED ABOUT 28 YEARS,
R/AT NO. 186/A, SANNIDHI, 30TH MAIN,
27TH CROSS, SIDDALINGESHWARA LAYOUT,
J P NAGAR, MYSORE - 560 008.

...APPELLANT

(BY SRI. MAHABALESH K PATIL., ADVOCATE FOR
SRI. VIJETHA R NAIK.,ADVOCATE)

AND:

1. LIFE INSURANCE CORPORATION OF INDIA (LIC)
CENTRAL OFFICE, YOGASHEMA JEEVAN BIMA
MARG, NARIMAN POINT, MUMBAI 400 021.
REP. BY BRANCH HEAD/MANAGER

2. SENIOR DIVISIONAL MANAGER
LIFE INSURANCE CORPORATION OF INDIA
DIVISIONAL OFFICE, MYSURU- 560 008.

...RESPONDENTS

THIS WRIT APPEAL FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO a) SET ASIDE THE ORDER
DATED 19/06/2023 PASSED BY THE LEARNED SINGLE JUDGE
IN WP NO.11957/2023 AND ETC.,





THIS APPEAL COMING ON FOR PRELIMINARY HEARING, THIS DAY, **CHIEF JUSTICE** DELIVERED THE FOLLOWING:

JUDGMENT

This intra court appeal by the writ petitioner seeks to call in question a learned Single Judge's order dated 19.06.2023 whereby W.P.No.11957/2023 (S-RES) has been dismissed and as a consequence the claim for compassionate appointment is turned down.

2. Learned counsel for the appellant submits that even a married daughter is entitled to compassionate appointment on par with a son of an employee, dying in harness, the impugned order running counter to this proposition being unsustainable is liable to be voided.

3. Having heard the learned counsel for the appellant and perused the appeal papers, we decline indulgence in the matter broadly being in agreement with the reasoning of the learned Single Judge as reflected in the impugned order. Father of the appellant namely, Sri K.Jayashankar who was working as a Branch Manager in LIC died in harness on 28.09.2021 is true. The appellant



was admittedly married away long before this. The LIC Recruitment of Staff Instructions vide Clause 21 (ii) exclude a married daughter from being eligible for appointment on compassionate basis. These Instructions having the statutory flavour partake the character of subordinate legislation. In the absence of any challenge being laid to their validity, there is a presumption that they are valid and enforceable. The Apex Court decision in a recent decision that is Dhanraj vs. Vikram Singh 2023 SCC Online SC 724 at para 13 has observed as under:-

"13. We are of the view that in absence of any specific challenge to the validity of the statutory provisions, the High Court ought not to have undertaken the exercise of going into the question of repugnancy. We fail to understand the propriety of the observation that the law departments of the State and the Union should have a dialogue to remove the discrepancy. Moreover, the High Court has not proceeded to strike down the relevant provisions which were held to be repugnant to PESA. It only directs that till the discrepancy is removed by the legislature, certain provisions of the 1961 Act and the rules framed thereunder shall be ignored. Such approach by the writ Court is not at all called for. Without holding that the statutory provisions are not constitutionally valid, the



High Court could not have issued a direction not to implement the statutory provisions."

4. Learned Single Judge has rightly relied upon the Apex Court decision in State of Maharashtra vs. Madhuri Maruti Vidhate AIR 2022 SC 5176 to the effect that a married daughter residing in the matrimonial home ordinarily cannot be treated as a dependent on her father. Our scriptures injunct "*bharta rakshati yavvane...*" literally meaning that it is the duty of husband to provide maintenance to his dependent wife. That is how our legislations too are structured e.g., Section 125 of the Code of Criminal Procedure, 1973 (applicable to all regardless of religions), Sections 24 & 25 of the Hindu Marriage Act, 1955 (applicable to Hindus, in a broad sense of the term), Section 37 of the Divorce Act, 1869 (applicable to Christians), Section 40 of the Parsi Marriage and Divorce Act, 1936 (applicable to Parsis), Section 20 of the Protection of Women from Domestic Violence Act, 2005 (applicable to all persons regardless of religion and marital status), Sections 36 & 37 of the Special Marriage



Act, 1954, The Muslim Women (Protection of Rights on Marriage) Act, 2019 (applicable to Muslims wives), etc., have been structured. No binding rule or ruling that guarantees right of maintenance to the married daughter residing with the husband *qua* the father, is brought to our notice.

5. It hardly needs to be stated that the appointment on compassionate ground avails as an exception to the rule of equality enacted in Articles 14 and 16 of the Constitution of India. The Apex Court in *Bank of Baroda vs. Baljit Singh* 2023 SCC OnLine SC 745 has reiterated that the compassionate appointment is a concession and therefore, cannot be claimed as a matter of right; the job aspirants on this ground need to satisfy the criteria laid down in the extant rules/schemes. Added, the right to claim such appointment is conditioned by the fact that the family of the employee dying in harness is in financial distress and therefore, needs to be tided over. However, that is not the case here inasmuch as the



respondent-LIC has paid the terminal benefits of the deceased employee in a whopping sum of Rs.1,58,06,025/- which metaphorically speaking, is an astronomical figure. Even if recovery of Rs.27,35,616/- is made by way of deduction, still what remains is a sizeable amount. By no stretch of imagination, the members of the family, assuming that a married daughter too happens to be one, therefore, cannot argue of financial distress.

6. The reliance on a learned Single Judge's decision in Bhuvaneshwara V. Puranik vs. State of Karnataka 2020 SCC OnLine Kar 3397 could not much come to the aid of the appellant inasmuch as that case related to a specific challenge to a particular provision in the Karnataka Civil Services (Appointment on Compassionate Grounds) Rules, 1996, that was eventually struck down on being challenged. We also notice that, the Government being the rule making authority under the provisions of the Karnataka State Civil Services Act, 1978 has put an end to the discrimination of daughters on



marriage *per se*, by amending these rules. Even otherwise, we do not find any infirmity in the impugned order of the learned Single Judge.

In the above circumstances, this writ appeal being devoid of merits is liable to be and accordingly is rejected in *limine*.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

Snb/
List No.: 1 Sl No.: 18