

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

OP(KAT).No. 275 of 2015 (Z)

AGAINST THE ORDER IN TA 6890/2012 of KERALA ADMINISTRATIVETRIBUNAL,
THIRUVANANTHAPURAM DATED 19-12-2014

PETITIONER/APPLICANT :

K.M.DHANYA
PARIACHERI HOUSE, ELAMBACHI P.O.,
KASARAGOD DISTRICT.

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENTS/RESPONDENTS :

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
2. THE SECRETARY TO GOVERNMENT
PERSONNEL AND ADMINISTRATIVE REFORMS DEPARTMENT, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 001.
3. THE COMMISSIONER
LAND REVENUE DEPARTMENT, THIRUVANANTHAPURAM-695 001.
4. THE DISTRICT COLLECTOR
KASARAGOD-671 001.

BY GOVERNMENT PLEADER SRI.RINNY STEPHEN CHAMAPARAMBIL

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING COME UP FOR
ADMISSION ON 11-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS

P1 : COPY OF THE DEATH CERTIFICATE OF SRI.N.P.SATHEESH.

P2 : COPY OF THE LEGAL HEIRSHIP CERTIFICATE
DTD.20.8.2004 ISSUED BY TAHSILDAR, HOSDURG.

P3 : COPY OF THE ORDER, GO DTD.24.5.1999 ISSUED BY THE
GOVERNMENT.

P4 : COPY OF THE LETTER DTD.6.1.2001 ISSUED BY THE
GOVERNMENT.

P5 : COPY OF THE APPLICATION DTD.21.12.2004 SUBMITTED BY
THE PETITIONER FOR APPOINTMENT UNDER THE DYING-IN-HARNES
SCHEME.

P6 : COPY OF THE LETTER DTD.26.10.2006 ISSUED BY THE 1ST
RESPONDENT TO THE 4TH RESPONDENT.

P7 : COPY OF THE COMMUNICATION DTD.16.6.2007 SENT BY THE
4TH RESPONDENT TO THE 3RD RESPONDENT.

P8 : COPY OF THE ORDER DTD.26.6.2009 ISSUED BY THE 1ST
RESPONDENT.

RESPONDENTS' EXHIBITS:

EXT.R3(a) : TRUE COPY OF THE LETTER NO.706674/T1/07/RD DATED
5.5.2009.

//TRUE COPY//

P.A. TO JUDGE

smv

**K. SURENDRA MOHAN
&
SHAJI P. CHALY, JJ.**

O.P.(KAT) No.275 of 2015

Dated this the 11th day of September, 2015

JUDGMENT

Surendra Mohan,J.

The petitioner has filed this Original Petition seeking the following reliefs:

- (i) To set aside Annexure – 3 order dated 19.12.2014 of the Hon'ble Kerala Administrative Tribunal, Thiruvananthapuram, Camp Sitting Ernakulam in T.A. No.6890 of 2012 (W.P.(C) No.23221 of 2009);
- (ii) To allow T.A. No.6890 of 2012 with cost to the petitioner; and
- (iii) To grant such other and further relief as this Honorable Court may consider just and proper in the facts and circumstances of the case.

2. The petitioner had got married to one Satheesh. N.P. on 29.03.2003. At the time of her marriage, her husband was working as a Villageman in Belur Village of Hosdurg Taluk. He died on 10.04.2003. Ext.P2 Legal Heirship Certificate shows that the petitioner as well as his mother are the only legal representatives of the deceased. The petitioner had submitted an application for appointment under the Compassionate

Employment Scheme on 21.12.2004. According to the petitioner, as per Ext.P3 scheme, she is entitled to get Compassionate Employment. However, her claim was rejected by Ext.P8 order, which forms part of Annexure – A1. The petitioner's application has been rejected for the reason that she had re-married on 04.07.2005. Thereupon, her status as widow changed and for the said reason, she was no longer a dependent of the deceased, entitled to appointment under the Compassionate Employment Scheme.

3. Aggrieved by Ext.P8, the petitioner had approached this Court by filing W.P.(C) No.23221 of 2009. The same was subsequently transferred to the Kerala Administrative Tribunal and was re-numbered as T.A. 6890 of 2012. As per Ext.A3 order, the Tribunal has dismissed the petitioner's application holding that she was not entitled to the benefit of the Compassionate Employment Scheme. The said order is under challenge in this Original Petition.

4. According to Sri. V.N.Ramesan Nambisan who appears for the petitioner, though the petitioner had re-married on 04.07.2005, there has been no change in her financial condition for the reason that, the person to whom she had got re-married

had lost his job. Therefore, it is contended that she is a person who needs the benefit of the Compassionate Employment Scheme and an employment for her sustenance. Ext.P6 clarification is relied upon to put forward a contention that, even the Government has accepted the above position by issuing the said clarification. It is pointed out that in Ext.P6, it is accepted that dependency may not change though the status of the person changed on re-marriage. Ext.P8 is also relied upon by the learned counsel for the petitioner. The contentions of the learned counsel for the petitioner are opposed by the learned Government Pleader, Sri. Renny Stephen Chamaparambil. According to the learned Government Pleader, Annexure – A1 defines a dependency and as per the definition, the petitioner cannot be considered to be dependent of the deceased person, she having got married to another person. Since she was not a dependent of the deceased, she was not entitled to the Compassionate Employment.

5. Heard. The facts are not in dispute. It is not disputed that the petitioner had got married to the deceased on 29.03.2003. He had expired on 10.04.2003, after a period of 11 days. Though an application for Compassionate Employment

was submitted by the petitioner on 29.11.2004, she had got re-married to another person on 04.07.2005. With her re-marriage, the status of the petitioner changed. She no longer continued to be the widow of the deceased. Upon re-marriage, she also acquired the status of a dependent of the person to whom she had got re-married. Her status as a dependent of the deceased having undergone a change with her re-marriage, she is not entitled to claim the benefits of the Compassionate Employment Scheme. The same is available only to a dependent of the deceased person.

6. We remind ourselves of the fact that the Compassionate Employment Scheme is one that is introduced to ameliorate the conditions of a family that is suddenly deprived of the income of its sole bread winner. In such circumstances, the Compassionate Employment Scheme permits the normal method of appointment to be bypassed, to accommodate a dependent of the deceased and to give him/her an employment so that, the family could be saved from the poverty into which it is plunged by the sudden demise of the bread winner. Such a situation does not exist in the present case. The Administrative Tribunal has correctly appreciated the issues involved and has arrived at the right

conclusions. We do not find any infirmity in the impugned order requiring interference.

For the above reasons, this Original Petition fails and it is accordingly dismissed.

Sd/-
K. SURENDRA MOHAN
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

//true copy//

P.A. To Judge

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