

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 6TH DAY OF NOVEMBER 2015/15TH KARTHIKA, 1937

WP(C).No. 27335 of 2015 (N)

PETITIONER:

**PRADEEJA K.S. AGED 33 YEARS
ANANDU BHAVAN, PERUMKULANGARA, NEYYAR DAM P.O.
THIRUVANANTHAPURAM-695572.**

**BY ADVS.SRI.BRIJESH MOHAN
SMT.RESMI G. NAIR**

RESPONDENTS:

- 1. TRAVANCORE DEVASWOM BOARD
NANTHANCODE, THIRUVANANTHAPURAM-695011
REPRESENTED BY ITS SECRETARY.**
- 2. THE DEVASWOM COMMISSIONER
TRAVANCORE DEVASWOM BOARD, NANTHANCODE
THIRUVANANTHAPURAM-695011.**

BY SRI.A.N.RAJAN BABU, SC, TRAVANCORE DEVASWOM BOARD

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1- COPY OF THE APPLICATION DATED 19-04-2005 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**
- EXHIBIT P2- COPY OF THE JUDGMENT DATED 28-01-2013 IN O.P.NO. 310/2005 AND M.C.NO. 147/2001 OF THE FAMILY COURT, THIRUVANANTHAPURAM ALONG WITH COMPROMISE PETITION.**
- EXHIBIT P3- COPY OF THE REPRESENTATION DATED 24-06-2013 SUBMITTED BY THE PETITIONER BEFORE THE 1S RESPONDENT.**
- EXHIBIT P4- COPY OF THE APPLICATION DATED 05-08-2013 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**
- EXHIBIT P5- COPY OF THE BOARD NOTE NO. ROC 7718/13/EST-IV ISSUED BY THE 1ST RESPONDENT IN JULY 2015.**
- EXHIBIT P6- COPY OF THE BOARD NOTE NO. ROC 7718/13/EST-IV ISSUED BY THE 1S RESPONDENT IN FEBRUARY 2015.**
- EXHIBIT P7- COPY OF THE ORDER NO. ROC 7718/13/EST-IV DATED 24-04-2015 OF THE 1ST RESPONDENT.**
- EXHIBIT P8- COPY OF THE REPORT NO. R.O.C. 10251/13/EST.(C) DATED 28-10-2013 OF THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 27335 of 2015 (N)

Dated this the 6th day of November, 2015

J U D G M E N T

The petitioner is the daughter of a deceased employee of the respondent Board. The petitioner's father died while in service on 29.3.2005. The petitioner is said to have made an application on 19.4.2005, produced as Ext.P5 for compassionate appointment.

2. The Board could not consider it since there was a dispute between the second wife of the deceased and the petitioner, who was the daughter in the first marriage of the deceased. There was also an order from the Family Court restraining the Board from making appointment on compassionate grounds. After prolonged litigation, the petitioner entered into a compromise, as seen at Ext.P2, which entitled the petitioner to seek appointment on compassionate ground. Hence, the petitioner made another application, produced at Ext.P4 to be appointed as an L.D. Clerk.

3. The Board by Ext.P5 found that the petitioner's application in original is not available with the Board. In Exts.P5 and P6 orders of the Secretary there was a recommendation that the petitioner's application be considered. However, by Ext.P7 the petitioners claim was rejected on the ground that the petitioner's application in original was not available in the records of the Board.

4. The Board concedes that there is a photocopy of the application available in the records, but, however, no original is seen. In the context of there being a photocopy available, there can be no dispute raised on the question of whether the application was made in time or not. Ext.P1, hence, had been filed within time.

5. Now the question is as to the preference to be given for consideration of the petitioner's case, whether it be from the date of the first application or from a subsequent date when her claim could be considered. Evidently, the petitioner was embroiled in a litigation which

was pending for more than eight years. Only by Ext.P2, on 28.1.2013, a compromise was entered. The principle underlying compassionate appointment is to give succour to a family whose sole bread winner has been suddenly taken away, leaving the family in abject poverty, without any means of livelihood.

6. The Hon'ble Supreme Court and this Court has repeatedly expressed caution in exercising discretion in favour of such appointment after a long time; which was declared to be against the principles of equality, but, however, permitted only on account of the consideration of saving a family from being thrown out on the streets. There would be other claimants waiting in the list who have a more serious condition than the petitioner and there can, hence, be no relation back to the date of death of the petitioner's father nor to the date of application.

7. The litigation was settled only by Ext.P2 in 2013. The Board also submits that they appoint persons from a list

prepared and only 10% vacancies are set apart for compassionate appointment in each year. The consideration also would have to be made looking at the financial condition of the dependents.

8. In such circumstance, the petitioner shall be considered as having been eligible in 2013, the date of Ext.P2 and the appointment shall be only after consideration of the financial condition of the petitioner's family. Ext.P7, hence, would stand set aside since, the fact that the copy of the application is available would indicate that the petitioner had at the appropriate time made the application.

Writ Petition is disposed of, however, leaving it to the respondent Board to consider the entitlement of the petitioner in accordance with law.

Sd/-
K.VINOD CHANDRAN,
JUDGE