

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29/6/2015

C O R A M

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. No.804 of 2015
and
M.P.No.1 of 2015

1. The State of Tamil Nadu
rep. By its Principal Secretary to the Government
Revenue Department
Secretariat
Fort St. George
Chennai 600 009.
 2. The District Collector
Villupuram District
Villupuram.
- ...Appellants/Respondents

Vs

J. Arulmozhi ...Respondent/Petitioner

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 12/9/2014 passed in W.P.No.23868 of 2014.

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, to call for the records relating to the proceedings issued by the 2nd respondent in Na.Ka.No.4/11314/2013, dated 29.10.2013 and quash the same and consequently direct the respondents to provide appointment to the petitioner on compassionate grounds based on her educational qualification, within a time frame.

For appellants : Mr.P.S.Sivashanmuga Sundaram
Spl.G.P.

For respondent : Mr.G.Sankaran

J U D G M E N T

(Judgment of the Court was made by SATISH K. AGNIHOTRI,J.,)

The instant writ petition was filed by the respondent herein, seeking a writ of certiorarified mandamus to quash the proceedings issued by the second appellant in Na.Ka.No.4/11314/2013 dated 29/10/2013, whereunder, the application of the respondent for grant of compassionate appointment was rejected and further a direction to provide an appointment to the respondent on compassionate ground on the basis of her educational qualification.

2. The indisputable facts as recorded by the learned Single Judge is that the respondent's father while working as Village Administrative Officer in Revenue Department, Villupuram District, died on 5/1/2008 in harness, leaving behind the respondent, her sister and mother as legal heirs. The respondent is a married daughter and her husband is unemployed. The respondent has submitted 'No Objection Certificate' of her sister and mother for the purpose of consideration for her appointment on compassionate basis.

3. The learned Single Judge, considering all the facets of the case and also relying on several decisions held that the respondent was wrongly declined compassionate appointment as her marriage is not a disqualification. If the marriage is not a disqualification for the son of a Government Servant, the same could not be cited as a disqualification for the daughter of a Government servant. This issue requires adjudication. However, in the facts of the case, where the deceased has left behind his only two daughters and a widow, the question of law is left open to be considered in an appropriate case.

4. An identical issue came up for consideration before this Court in W.A.No.635 of 2015 on 23.4.2015 (The Assistant Primary Education Officer, Assistant Primary Education Office, Anthiyur and others Vs. Mrs.Kayalvizhi), wherein it was held as under :

"The ratio which arises from the afore-stated observation is, that a married daughter is eligible for consideration

subject to submission of 'no objection certificate' of other members of the deceased family and also with an undertaking from her and her husband that she will take care of the other members of the parents' family."

5. We heard the learned counsel for the parties and perused the pleadings and documents appended thereto.

6. It is a trite law that compassionate appointments have to be made as per policy of the State Government. The compassionate appointment is not a right but a facility to get over the difficulties befallen the dependent members of the deceased employee. In the case on hand, since the deceased employee had left behind two daughters and wife, the respondent has to take care of her mother and sister. As a sequitur, the writ petitioner/respondent herein is entitled to consideration for compassionate appointment, subject to submission of 'No Objection Certificate' from other members of the deceased and also an affidavit of undertaking from her and her husband that they will take care of all the members of the deceased family.

7. Accordingly, we dispose of the writ appeal, directing the appellants/respondents to consider the application of the respondent/writ petitioner afresh, subject to the filing of affidavit of undertaking as afore-stated by the respondent and pass an appropriate order as expeditiously as possible. Connected M.P.No.1 of 2015 is closed. No costs.

Sd/-
Assistant Registrar (CO)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

mvs.

To

1. The Principal Secretary to the Government
The State of Tamil Nadu,
Revenue Department, Secretariat
Fort St. George, Chennai 600 009.

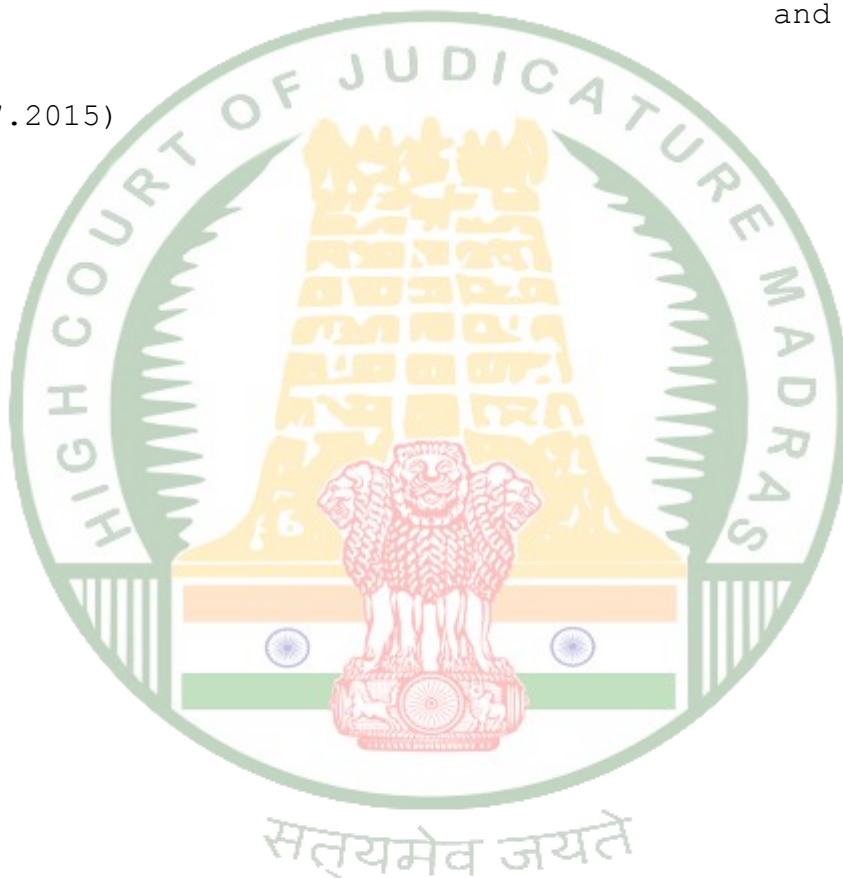
2. The District Collector
Villupuram District
Villupuram.

1 CC to Mr.G.Sankaran, Advocate SR.No. 31947

1 CC to the Government Pleader, SR.No. 31981

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PUR (CO)
PSI (06.07.2015)



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