

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2015

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

W.P. No. 11506 of 2015

Kalavathy

..Petitioner

Vs.

The Tahsildar,
Poonamallee,
Tiruvallur District.

..Respondent

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the respondent herein to issue the comprehensive certificate regarding the petitioner's indigent status after duly conducting an enquiry within a short date that may be fixed by this Court.

For Petitioner :: Ms.G. Nalini

For Respondent :: Mr.RM. Muthukumar,
Govt. Advocate

O R D E R

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner submits that she is the legally wedded wife of one N.S. Gopal, @ Murugan, who was working as Fitter Grade II, Token No. 273 in the P.W.D. Department. Out of their wedlock, a female child was born on 14.06.1986. The petitioner would further state that since her husband deserted her, she filed maintenance case against her husband in M.C.No. 201 of 1998 and a sum of Rs.750/- was ordered as maintenance for her and her child. However, the marriage between the petitioner and her husband subsisted till he died in harness on 09.07.2003. Thereafter, when the petitioner applied for terminal benefits of her deceased husband, she came to understand that there was a rival claim, which resulted in the petitioner filing a suit in O.S. No. 49 of 2004 before the II Additional Family Court, Chennai, for declaration that she is the legally wedded wife of deceased Gopal, wherein the suit filed by the rival claimant, in O.S.No. 20 of 2004, for

permanent injunction restraining the respondents therein from disbursing the terminal benefits of deceased Gopal to the petitioner, was also pending. Subsequently, a compromise was reached in both suits and a decree came to be passed based on the memo of compromise filed by the parties. In spite of it, the Department refused to implement the said decree. Therefore, the petitioner filed W.P. No. 8154 of 2009 on the file of this Court and by order dated 18.09.2013, this Court disposed of the writ petition directing the respondents therein to disburse the terminal benefits except family pension, in accordance with the shares declared by the Civil Court. Thereafter, the petitioner gave a representation on 12.11.2013 to the Public Works Department seeking appointment on compassionate grounds. On receipt of the said application, the petitioner was asked to apply in the prescribed format enclosing all the necessary certificates namely death certificate, income certificate, comprehensive certificate from the Tahsildar concerned regarding her indigent status, etc. In pursuant to the same, the petitioner submitted an application dated 26.12.2013 to the respondent herein praying for issue of a comprehensive indigent certificate and it was returned by the order dated 22.10.2014 stating, among other things, that since the order passed by this Court in W.P. No. 8154 of 2009 was silent on the aspect of grant of appointment on compassionate grounds, legal opinion was sought and as it was not given, the petitioner was asked to renew her application after getting appropriate direction from this Court regarding compassionate appointment. Aggrieved by the said order, the petitioner has come forward to file this writ petition.

3. Learned counsel for the petitioner would submit for submitting an application for appointment on compassionate grounds, indigent certificate is required and only for that purpose, the petitioner sought issue of indigent certificate. Therefore, the reason assigned by the respondent is not in order.

4. Per contra, on instructions, the learned Government Advocate would submit that even as per the averments made in the affidavit filed in support of the writ petition, the petitioner is not entitled to get appointment on compassionate grounds and therefore, the rejection of the petitioner's application is in order.

5. This Court heard the rival submissions and perused the materials on record.

6. The respondent is, in no way, concerned as to the eligibility of the petitioner to get appointment on compassionate grounds and his duty is to find out and give a certificate as to whether the petitioner is indigent or not. The reason stated by

the respondent that for want of legal opinion, the said certificate could not be issued, in the opinion of this Court, is highly improper. Therefore, the impugned order warrants interference.

7. In the result, the impugned order is set aside and the writ petition is partly allowed remitting the matter, once again, to the respondent for fresh consideration of application of the petitioner dated 26.12.2013, for issue of a comprehensive indigent certificate. The respondent is directed to provide an opportunity of personal hearing to the petitioner and thereafter, pass orders, in accordance with law, within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nv

To
The Tahsildar,
Poonamallee,
Tiruvallur District.

+ 1 cc to Ms. G. Nalini, Advocate SR.21654
+ 1 cc Government Pleader Sr.21783

BKY(CO)
EU 11.05.2015

सत्यमेव जयते

W.P. No. 11506 of 2015

WEB COPY