IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 12.3.2015.

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.8343 of 2007
(O.A.No.4939 of 2002)

Smt.S.M.Joice ... Petitioner

vs.

1. The Collector,
   Tirunelveli District,
   Tirunelveli.

2. The Principal Commissioner and
   Commissioner of Revenue Administration,
   Chepauk, Chennai 600 005. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus to call for the records relating to the order of the 1st respondent in his Rc.A4/84041/2000 dated 22.11.2001 and that of the 2nd respondent in his Procs.No.Ser.6(2)/6060/2002 dated 8.4.2002 and quash the same and consequently direct the respondents to give suitable appointment to the son of the petitioner on compassionate grounds.

For Petitioner : Mr.M.Devaraj

For Respondents: Mr.R.Govindasamy, AGP

ORDER

This writ petition has been filed by S.M.Joice challenging the impugned order passed by the District Collector, Tirunelveli in Rc.A4/84041/2000 dated 22.11.2001 as confirmed by the second respondent Principal Commissioner and Commissioner of Revenue Administration in proceedings No.Ser.6(2)/6060/2002 dated 8.4.2002 whereby the requisition of the petitioner for appointment on compassionate ground to her son was refused, and the same, later, came on transfer to this court.

2. Learned counsel appearing for the petitioner, while assailing the impugned order, submitted that respondents 1 and 2 have completely overlooked G.O.Ms.No.155 Labour and Employment Department, dated 16.7.1993 governing compassionate ground appointment wherein the Government has clearly mentioned that the receipt of pension,

family pension, provident fund accumulation, family benefit, death-cum-retirement gratuity, encashment of leave at credit at the time of death etc., will not be a disqualification for appointment on compassionate ground and that apart, when the petitioner's husband died on 12.5.2000 and the petitioner also retired from service in September 1998 and therefore, the request of the petitioner, to appoint her son on compassionate ground ought not to have been rejected by the District Collector, the first respondent and the second respondent has also committed error in dismissing the appeal of the petitioner in the light of G.O.Ms.No.155. By contending that the petitioner is receiving family pension of Rs.4413/= per month besides her pension of Rs.2875/= per month, The first respondent District Collector has come to a conclusion that the petitioner's family is not in indigent circumstances which is wholly untenable and therefore, the impugned orders are liable to be set aside.

3. A detailed counter affidavit has been filed and the learned Additional Government Pleader appearing for the respondents would submit that late Mr.A.Subramanian, who was working as Sub Collector, Kallar Reclamation at Madurai died in harness on 12.5.2000 and thereafter, his wife S.M.Joice submitted an application to give appointment on compassionate ground to her son Mr.Chandramohan. The said application was forwarded to Revenue Divisional Officer for enquiry and report. The Tahsildar of Sankarankoil by his report in letter No.A3/10129/2000 dated 11.12.2000 reported that the petitioner is belonging to Hindu Kallar community and she also owns a house besides that she was receiving family pension of Rs.4413/= per month alongwith her pension of Rs.2875/=. In view of the above, the first respondent came to the conclusion that the petitioner's family is not in indigent circumstances. Therefore, the refusal of the District Collector cannot be questioned.

4. This court also finds merits in the submission made by the learned Additional Government Pleader. Admittedly, the report sent by the Tahsildar of Sankarankoil by his letter dated 11.12.2000 clearly shows that after the death of her husband, the petitioner has been receiving family pension of Rs.4413/= per month from the year 2000 alongwith her pension of Rs.2875/=. That apart, she also owns a house. Therefore, the petitioner's family cannot be said to be living in indigent circumstances. That apart G.O.Ms.No.155 also, as pleaded by the learned counsel appearing for the petitioner, has not excluded the family pension. Para 2 of G.O.Ms.No.155 dated 16.7.1993 clearly says that receipt of provident fund, death cum retirement gratuity encashment of leave credit at the time of death etc., will not be considered as disqualification. But, the said G.O. does not mention anything about the receipt of family pension.

5. In the present case, the petitioner viz., Tmt.S.M.Joice was not only getting her pension, but also receiving family pension after the death of her husband. Therefore, this court is not able to

disagree with the impugned order holding that the petitioner's family is not in indigent circumstances. Therefore, the writ petition fails and is dismissed. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Collector,
   Tirunelveli District,
   Tirunelveli.

2. The Principal Commissioner and
   Commissioner of Revenue Administration,
   Chepauk, Chennai 600 005.

+1 cc to M/s.M.Devaraj, Advocate,SR.14107

+1 cc to The Government Pleader,SR.14218.

mp(co)
krd 10/4

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