

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.29980 of 2015

And

M.P.No.1 of 2015

N.Kalaivani

... Petitioner

Vs.

The District Collector
(Development Section)
Office of the Collector
Coimbatore.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent in Na.Ka.No.5062/2015/K4 dated 25.08.2015, quash the same as unconstitutional and further direct the respondent to provide suitable employment to the petitioner under compassionate ground.

For Petitioner	: Mr.C.D.Sugumar
For Respondent	: Mr.V.Subbiah
	Special Government Pleader

O R D E R

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

2.The petitioner who is having the educational qualification of M.Sc.Computer Science and M.Phil got married to V.Vijay on 15.02.2009 and her father was working as Assistant Engineer at the office of the Assistant Executive Engineer, Rural Development Department, Sulur, Coimbatore and he died in harness on 09.02.2014 on account of illness. The petitioner would further state that her mother also suffered due to cancer and died on 14.01.2015 and the petitioner, her brother Vinod Kumar and her sister Sakunthala are the legal heirs. It is further stated by the petitioner that her mother prior to her demise, also made representation to the respondent to provide employment under compassionate ground to the petitioner and it was rejected on 26.12.2014.

3.The petitioner also submitted a representation dated 06.08.2015 praying for suitable employment on compassionate ground and along with it, she has also enclosed no objection certificate issued by her brother and sister and however, vide impugned order dated 25.08.2015, it was rejected on the ground that in terms of G.O.No.225, Labour Department, dated 15.02.1972, G.O.No.560, Labour and Employment Department, dated 03.08.1977 and Government Letter No.15672/N-1/78-2, Labour and Employment Department, dated 04.05.1978, the petitioner is ineligible to get appointment on compassionate ground since she is married and challenging the legality of the same, the petitioner came forward to file this writ petition.

4.The learned counsel appearing for the petitioner would submit that the matter in issue is squarely covered by the orders dated 03.04.2013 and 13.08.2013 made in W.P.(MD).No.5183 of 2013 and W.P.No.22171 of 2013 respectively and prays for appropriate orders.

5.This Court heard the submissions Mr.V.Subbiah, learned Special Government Pleader who accepts notice on behalf of the respondent.

6.In the order dated 13.08.2013 made in W.P.No.22171 of 2013, the learned Single Judge had placed reliance upon the order dated 02.07.2012 made in W.P.(MD).No.8686 of 2011 and it is relevant to extract paragraph 9 of the said order which reads as follows:

"9.As stated above, if marriage is not a bar in the case of son, the same yardstick shall be applied in the case of a daughter also. At this juncture, it is relevant to take note of the statute, namely the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 which places equal duty on both the son and daughter to take care of the parents at the old age. Therefore, in the case of death of the parents, there cannot be any unequal treatment among the children based on sex. Further, as rightly contended by the learned counsel for the petitioner, the judgment of this Court reported in 2008 5 CTC 685 (G.Girija Vs. Assistant Director (Panchayats) Kancheepuram, Kancheepuram District) applies to the facts of this case. In the said case, the Government servant died on 26.02.1991. The daughter got married on 10.09.2006. She gave an application for compassionate appointment on 02.06.1977. This court quashed the order declining to give compassionate appointment holding that there cannot be any discrimination between sons and daughters in the case of giving compassionate appointment. The said judgment squarely applies to the facts of this case. Therefore, I have no hesitation to quash the impugned order.

Accordingly, the impugned order is quashed and a direction is issued to the respondents to consider the claim of the petitioner for compassionate appointment without reference to the marriage of the petitioner and to pass appropriate orders in the light of this judgment within a period of eight weeks from the date of receipt of a copy of this order."

7. In the light of the above said orders, this Court is of the view the reason stated by the respondent that since the petitioner is already married, she is not entitled to get appointment on compassionate ground is per se un-sustainable and therefore, it warrants interference.

8. In the result, the writ petition is partly allowed and the impugned order dated 25.08.2015 is set aside and the matter is once again remanded to the respondent for fresh consideration, in accordance with law except the above said disqualification. The respondent is directed to complete the said exercise within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs. Consequently, the connected miscellaneous petition is also closed.

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s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

The District Collector
(Development Section)
Office of the Collector
Coimbatore.

+ 1 cc to Mr.C.D.Sugumar, Advocate SR 51927

+ 1 cc to Govt.Pleader SR 52187

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