

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.09.2015

Coram:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.30634 of 2015

M.Velumani

... Petitioner

vs.

1.The District Collector,
Collectorate Office,
Coimbatore

2.The Director of Town Panchayats,
No.42, Kuralakam,
Boradway, Chennai.

3.The Assistant Director of Town
Panchayat,
Coimbatore Zone,
Coimbatore

4.The Executive Officer,
Kottur Town Panchayat,
Kottur Malayandipattinam
Pollachi Taluk,
Coimbatore District.

5.The Chairman,
Kottur Town Panchayat,
Kottur Malayandipattinam,
Pollachi Taluk,
Coimbatore Taluk

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents to consider the petitioner's representation dated 14.11.2014, requesting for employment of Sanitary worker under the compassionate grounds.

For Petitioner : Mr.S.Silambu Selvan
For Respondents : Mr.V.Subbiah, Spl.G.P.
for R1 to R3

Mr.P.Sanjay Gandhi, A.G.P.
for R4 and R5

ORDER

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

2. The petitioner would state that his father, namely, Kandasamy, was employed as a Sweeper in the services of Kottur Town Panchayat ever since 30.11.1998 and he died in harness on 17.4.2014. His wife, i.e. the mother of the petitioner, pre-deceased him and the petitioner claims that she is the only surviving legal heir. It is further stated by the petitioner that she is married and had two minor children and her request for payment of pension was rejected by the proceedings of the third respondent dated 30.12.2014 and it is further stated in the said proceedings that with regard to the request made by the married daughter for compassionate ground appointment, this Court has passed orders and on receipt of the Government Orders, necessary further orders would be passed. The petitioner, aggrieved by the inaction on the part of the respondents in not giving her appointment on compassionate ground, came forward to file this writ petition.

3. Learned counsel appearing for the petitioner would submit that the husband of the petitioner is eking out his livelihood only as a coolie and out of wedlock, she begot two minor children, one male and one female and in the light of the judgments rendered by this Court in Management, Tamil Nadu State Transport Corporation Ltd., Kumbakonam vs. Joint Commissioner of Labour (Conciliation), Chennai and another (2013-I-LLJ-481 (Mad)) and in Jayalakshmi vs. Tamil Nadu Generation and Distribution Corporation Ltd., rep.by its Chairman, Chennai-2 and Others (2013-IV-LLJ-116 (Mad)), the petitioner is entitled to get appointment on compassionate grounds and prays for appropriate orders.

4. Heard the submissions of the learned counsel for the petitioner and Mr.V.Subbiah, learned Special Government Pleader, who accepts notice on behalf of R1 to R3 and Mr.P.Sanjay Gandhi, learned Additional Government Pleader, who accepts notice on behalf of R4 and R5.

5. Mr.P.Sanjay Gandhi, learned Additional Government Pleader would submit that since the petitioner, even in the event of getting compassionate ground appointment is not going to maintain his immediate family members, namely mother or father, the prayer sought for by the petitioner may not be granted.

6. This Court has considered the rival submissions and also perused the materials placed before this Court. In 2013-IV-LLJ-116 (Mad), this Court has placed reliance upon its earlier judgments in W.P.(MD) No.8686 of 2011 and it is relevant to extract paragraph No.5 of the said judgement:

"5.As rightly contended by the learned counsel for the petitioner, the matter is squarely covered by a decision dated 2.7.2012 rendered by me in W.P.(MD) No.8686 of 2011. Paragraph No.9 of the judgment is extracted hereunder:

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 G.Girija vs. Assistant Director (Panchayats) Kancheepuram, Kancheepuram District 2008 5 CTC 685 applies to the facts of this case. In the said case, the Government servant died on 26.2.1991. The daughter got married on 10.09.2006. She gave an application for compassionate appointment on 2.6.1997. 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 said ratio, it is not open to the respondents to reject the claim of the petitioner seeking compassionate ground appointment solely on the ground that she is already married.

8. In the result, the writ petition is disposed of directing the petitioner to comply with the deficiencies pointed out by the fourth respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, respondents 3 to 5

are directed to consider the claim of the petitioner seeking compassionate ground appointment in the light of the above said judgments and pass orders on merits and in accordance with law within a further period of six weeks thereafter and communicate the decision taken to the petitioner. No costs.

-sd/-

ASSISTANT REGISTRAR

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

msk

To

- 1.The District Collector,
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- 5.The Chairman,
Kottur Town Panchayat,
Kottur Malayandipattinam,
Pollachi Taluk,
Coimbatore Taluk

+1 CC to Mr.S.Silambu Selvan Advocate. SR.NO. 53121
+1 CC to Govt.Pleader.SR.NO.52961

W.P.No.30634 of 2015

CO-KV

JD 12/10/2015