

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2015

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.37041 of 2015

S.Vidhya

...Petitioner

Vs.

1. The Secretary to Government,
Department of Labour and Employment
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.

2. The District Collector,
The District Collector Office,
Coimbatore-641 001.

...Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 2nd respondent in its proceedings Mu.Mu.No.13215/2013/A6 dated 19/11/2013 and quash the same as illegal and consequently direct the Respondents to consider the petitioner's claim for compassionate Ground Appointment based on the Petitioner's qualification.

For Petitioner : Mr.R.Ganesh Babu

For Respondents : Ms.M.E.Raniselvam
Additional Government Pleader

O R D E R

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

2. The petitioner would state that her father late Subramaniyan who was working as an Office Assistant in the office of the Second Respondent Department died in harness on 30.05.2013 leaving behind his wife Mrs.Dhanalakshmi and Petitioner as his Legal Representatives. The petitioner got married to one Mr.Saravanan on 29.10.2006 and her husband does not have proper employment and the petitioner finds extreme difficult to maintain her family.

2. The petitioner would further state that she completed M.Sc. (Computer Application) in First Class with distinction from Bharathiar University. Apart from that she completed Bachelor degree in Hindi Siksha Visharad (B.Ed equivalent) and also obtained technical education in tamil typing junior grade in 2nd class and Hindi typing, Higher grade (1st class). The petitioner submitted an application seeking employment on compassionate grounds on 17.06.2013 which was rejected by the second respondent on the ground that she was already married and the married daughters are not entitled for compassionate appointment. Challenging the same, the present Writ petition has been filed.

2. The learned counsel for the petitioner and the learned counsel for the respondent would submit that the issue involved in this case is squarely covered by various decisions made by this Court in W.P.No.33305 of 2015, W.P.No.11777 of 2013 and W.P.(MD) No.180 of 2015. Paragraphs 5 to 7 in the W.P.(MD) No.180 of 2015 are extracted hereunder:

"5. In W.P.No.20271 of 2014 dated 21.08.2014, a learned Judge of this Court held at paragraph Nos.6 and 7 as follows:

"6. I am unable to accept the said contention of the learned Special Government Pleader for the respondents. The learned single Judge of this Court in W.P.No.22171 of 2013 followed his earlier judgment rendered in W.P.(MD) No.8686 of 2011, wherein the learned Judge observed 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 the 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 26.12.1991. The daughter got married on 10.09.2006. She gave an application for compassionate appointment on 02.06.1997. This Court quashed the order declining to 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. Therefore, as per the above judgment, there cannot be any discrimination between the son and daughter and the daughter though married is also entitled to the claim of appointment on compassionate ground, provided she satisfies the other requirements as stated in G.O.Ms.No.165, dated 30.08.2010 and the claim of the married daughter cannot be rejected on the ground that she married at the time of submitting the application for appointment on compassionate ground. In this case, the deceased Government Servant left behind his widow and the daughter and the daughter has also stated in the affidavit that she is living with her mother and taking care of the mother and the mother has also filed an affidavit to the effect that she has no objection for giving compassionate appointment to her poor daughter"

3. In the light of the decision cited supra, the Impugned Order of the second respondent dated 19.11.2013 is set aside and the Writ Petition is allowed. The second respondent is directed to consider the case of the petitioner and provide appointment on compassionate grounds to the petitioner, if the petitioner is otherwise eligible. Such exercise shall be carried out, within a period of eight weeks from the date of receipt of a copy of this order.

This Writ Petition is disposed of accordingly. No costs.

arr

Sd/-
Asst.Registrar

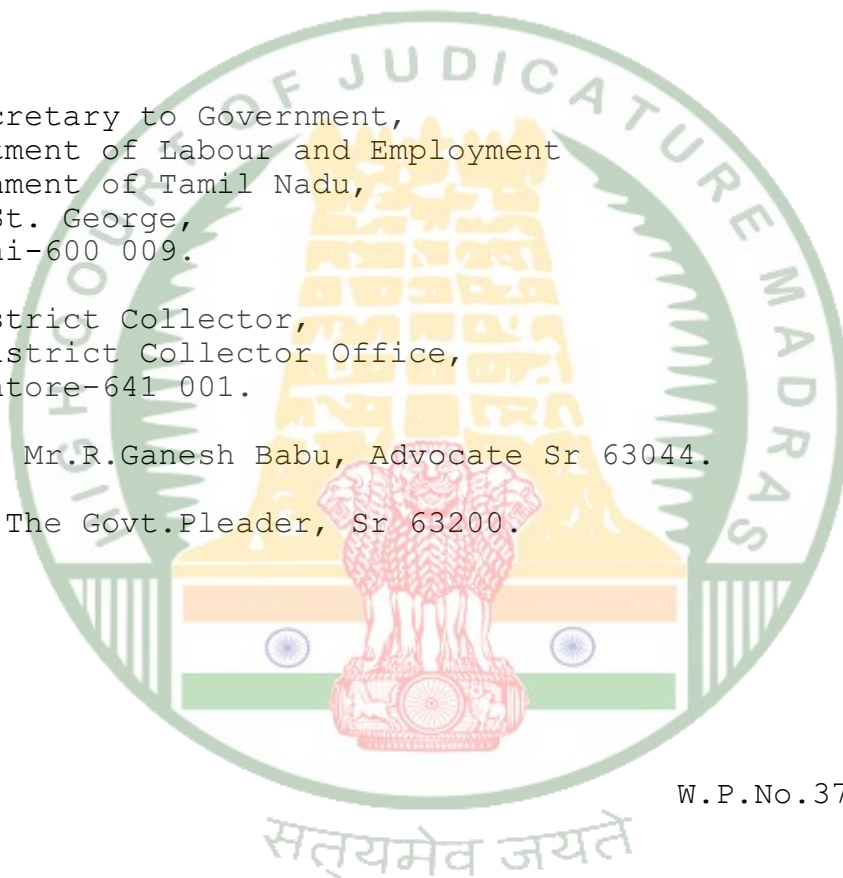
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Sub Asst. Registrar

To

1. The Secretary to Government,
Department of Labour and Employment
Government of Tamil Nadu,
Fort St. George,
Chennai-600 009.
 2. The District Collector,
The District Collector Office,
Coimbatore-641 001.
- + 1 cc to Mr.R.Ganesh Babu, Advocate Sr 63044.
- + 1 cc to The Govt.Pleader, Sr 63200.

KSJ/CO
KR/17/12



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