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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2015

Coram

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD).No.9663 of 2015

M.Sumathi :Petitioner

vs.

1.The State of Tamil Nadu,
Rep.by its Secretary,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai.

2.The Director of Town Panchayat,
Kuralagam, Chennai - 108.

3.The Assistant Director,
Town Panchayat,
Sivagangai Region,
Sivagangai District.

4.The Executive Officer,
Thirupuvanam Town Panchayat,
Sivagangai District. : Respondents

Prayer:
Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 4th respondent in his proceedings in Na.ka.No.390/2013, dated 21.01.2014, quash the same and direct the respondents to appoint the petitioner on compassionate ground as per the petitioner's educational qualification.

For Petitioner :Mr.V.Panneer Selvam

For Respondents :Mr.K.Mahesh Raja, GA

ORDER

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 4th respondent in his proceedings in Na.ka.No.390/2013, dated 21.01.2014, quash the same and direct the respondents to appoint the petitioner on compassionate ground as per the petitioner's educational qualification. The claim of the

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petitioner was rejected on the ground that she is married.

2. Mr.K.Mahesh Raja, the learned Government Advocate, takes notice for the respondents and by consent of both the parties, the main Writ Petition itself is taken up for final disposal, at the stage of admission.

3.The learned counsel for the petitioner submitted that the issue involved in this case is squarely covered by various decisions made by this Court in W.P.No.20271 of 2014, dated 21.08.2014, etc., in favour of the petitioner.

4.The learned Additional Government Pleader appearing for the respondents also fairly submitted that the issue involved in this case has already been settled by this Court in favour of the petitioner.

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:-
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> > "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 26.2.1991. The daughter got married on 10.9.2006. 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

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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 30.8.2010 and the claim of the married daughter cannot be rejected on the ground that she got 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."

6.As the issue involved in this case is already settled by this Court in various decisions, in favour of the petitioner herein, I am of the view that the impugned order passed by the 4th respondent cannot be sustained anymore. There is no other reason stated in the impugned order except the one that the she is married. Accordingly, this writ petition is allowed and the impugned order is set aside. The 4th respondent is directed to pass suitable orders on the petitioner's request for compassionate appointment within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

/TRUE COPY/

Sub assistant Registrar

To

1.The Secretary,
The State of Tamil Nadu,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai.

2.The Director of Town Panchayat,
Kuralagam, Chennai - 108.

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3.The Assistant Director,
Town Panchayat, Sivagangai Region,

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Sivagangai District.

4.The Executive Officer,
Thirupuvanam Town Panchayat,
Sivagangai District.

+ CC TO M/S C.S.ASSOCIATES ADVOCATE (CC SR:NO:38749)

+ CC TO SPL.GOVT. PLEADER (CC SR NO:39355)

MPK
JAM:27.7.2015/4P/7C

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