

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.36493 of 2012

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ORDER:

This writ petition was filed with the following prayer:

“For the reasons stated in the accompanying affidavit the Petitioners pray that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of “Writ of Mandamus” declaring action of the 2nd Respondent in issuing legal heir certificate dated 28.11.2011 in proceedings L.RNo.C/1186/2011 and also all further consequential orders of Respondent Nos.1 and 2 in considering the case of the 3rd Respondent for providing a job based on the impugned legal heir certificate dated 28.11.2011 on compassionate grounds and claiming pensionary benefits is arbitrary, illegal and without jurisdiction and set aside the same.”

It is not in dispute that the son of the first petitioner, being the husband of the third respondent, was in the service of the State as a Police Constable and that he died on 02.01.2012. It is in the context of this deceased State Government employee that the present writ petition was filed and the issues raised herein relate to compassionate appointment being provided to his dependent and also payment of his pensionary benefits.

In the light of the law laid down by the Supreme Court in **L.Chandra Kumar v. Union of India**^[1], this dispute

could not have been brought before this Court in the first instance. However, by oversight it appears that the writ petition has been entertained and stay was also granted as long back as in the year 2012. However, this Court is of the considered opinion that the writ petition was liable to be dismissed in limini on the ground of maintainability and mere pendency of this writ petition before this Court for two years would not cure this defect.

The writ petition is accordingly dismissed. It shall be open to the petitioners to approach the appropriate forum in accordance with law for redressal of their grievance, if any.

Interim order dated 27.11.2012 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

SANJAY

KUMAR, J

12th MARCH, 2015.

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[\[1\]](#) (1997) 3 SCC 261