

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.A.No.1764 of 2015

Chennai Metro Water Supply & Sewerage Board
rep.by its General Manager V.Murugesan
No.1, Pumping Station Road
Chintadripet, Chennai 600 002 ..Appellant/Respondent

-vs-

V.Sureshbabu ..Respondent/Petitioner

Appeal under Clause 15 of the Letters Patent, against the order dated 7.2.2014 made in W.P.No.9010 of 2013. Writ petition filed U/A.226 of the constitution of India to issue a writ of certiorarified Mandamus to call for the records of the respondents in connection with the impugned order issued by the respondent in letter No. Sekuvaa/Pamani/Nima6/50817/2012 dated 3.12.2012 and quash the same and further direct the respondents to appoint the petitioner in any suitable post on compassionate ground and grant all consequential service and monetary benefits

For Appellant :: Mr.N.Ramesh

For Respondent :: Mr.S.Sivakumar

JUDGMENT

(Judgment of the Court was made by HULUVADI G.RAMESH, J.)

This appeal at the instance of the Chennai Metrowater Supply and Sewerage Board is against the order passed in W.P.No.9010 of 2013 dated 7.2.2014.

2. Heard the learned counsel for the appellant/Board and the learned counsel representing the respondent.

3. Against the decision taken by the appellant/Board in depriving the respondent/writ petitioner of his appointment on compassionate ground stating that he being the son of the second wife of the deceased employee, he is not entitled for such appointment, the respondent/writ petitioner filed the writ petition. The learned single Judge, following the ratio laid

down by the Division Bench in H.Anwar Basha v. Registrar General (Incharge), Madras High Court, Chennai and another reported in (2008) 5 MLJ 795 and also the decision rendered by another Division Bench in the case of N.Panneerselvam v. Secretary to Government and others reported in (2009) 1 MLJ 54, quashed the order impugned by directing the Board to pass appropriate orders on the application of the writ petitioner. Though the appellant/Board filed a review application against that order reiterating the grounds that the judgments relied upon by the learned single Judge are distinguishable on facts and not applicable to the case of the respondent/writ petitioner, the learned single Judge rejected the review application holding that no ground was made out to review the order passed in the writ petition. Hence the Board is in appeal before us.

4. The issue raised in this writ appeal is no longer res integra, in view of the ratio laid down by a Division Bench of this Court in the case of H.Anwar Basha v. Registrar General (Incharge), Madras High Court, Chennai and another reported in (2008) 5 MLJ 795, wherein this Court has held that the eligibility criteria to provide employment assistance to the families of the deceased Government servants would make it clear that the dependants of the deceased Government servant include the son and it does not denote that the son should be a legitimate or illegitimate son of the parents. Further it is held that in order to achieve the object of providing employment assistance to the bereaved family, it would be necessary to examine whether the dependant is supporting the family to mitigate the sufferings of the family, relieving the bereaved family from the indigent circumstances. Therefore, when the object is met, the question of whether the delinquent dependant is a legitimate or illegitimate legal heir cannot be a stumbling block for the dependant to get employment.

5. The Apex Court in the case of Chand Patel v. Bismillah Begam and another reported in 2008 (2) CTC 308 (SC) has held that though the marriage is said to be irregular, the children born out of such marriage would not be disentitled to claim the benefits of their parents. In fact, the Apex Court in the case of Haryana State Electricity Board v. Naresh Tanwar reported in 1996-I-LLJ 1066 (SC) has held that the very object of appointment of dependant of the deceased employee who died in harness is to relieve immediate hardship and distress caused to the family by sudden demise of the earning member of the family.

6. In the case on hand, as rightly observed by the learned single Judge, the children of the first wife of the deceased employee had given their consent for the appointment of the respondent/writ petitioner, who is born to the second wife. Though the respondent may be an illegitimate son, still, that does not come in his way for seeking the benefit of compassionate appointment so long as he takes care of the family of the deceased who died in harness with an understanding that

such arrangement was made and the consent was also given by the other family members to appoint the respondent. The only concern of the appellant/Board is whether the respondent should be treated as heir or not for the purpose of accommodating him. In our view, on the settled legal principles whether it is legitimate or illegitimate, the learned single Judge has taken due care in passing an order in the main writ petition as well as in the review application, which requires no interference. Accordingly, the writ appeal fails and it is dismissed. Consequently, M.P.No.1 of 2015 is also dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ss

To

The General Manager
Chennai Metro Water Supply & Sewerage Board
No.1, Pumping Station Road
Chintadripet
Chennai 600 002

+1cc to M/s. N. Ramesh, Advocate, S.R.No.39968

+1cc to Mr/s.S. Sivakumar, Advocate, S.R.No.40186

RP(CO)
EU(01/08/2016)

W.A.No.1764 of 2015

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