

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2016

CORAM

THE HONOURABLE Mr. JUSTICE R.SUBBIAH

Writ Petition No.11914 of 2016

J.Kavitha .... Petitioner

Vs

1.The Registrar of Co-operative Societies,  
No.170, NVN Maligai,  
Kilpauk, Chennai-10.

2.The Deputy Registrar of  
Co-operative Societies,  
Coimbatore Circle,  
Coimbatore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus to call for the records of the 2<sup>nd</sup> respondent in Na.Ka.455/2012 Pa.Tho dated 29.04.2014, quash the same and consequently direct the respondents to provide employment to the petitioner on compassionate ground in the respondents department.

For Petitioner : Mr.M.S.Palanisamy

For Respondents : Ms.T.Girija, Govt. Advocate

ORDER

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

2. The petitioner has come up with the present writ petition for a certiorarified mandamus to call for the records of the 2<sup>nd</sup> respondent in Na.Ka.455/2012 Pa.Tho dated 29.04.2014, quash the same and consequently direct the respondents to provide employment to the petitioner on compassionate ground in

the respondents department.

3. The case of the petitioner is that the father of the petitioner was working as office assistant in the office of the 2<sup>nd</sup> respondent. He was addicted to alcohol and since he was found missing from 05.11.1996, mother of the petitioner lodged a complaint before the Inspector of Police, B4 Police Station, Race Course, Coimbatore City on 06.11.1996 and the same was registered in Crime No.2479 of 1996. Even though the father of the petitioner was not heard for more than 10 years, the Government had not considered their request to presume the said Jeyakumaran dead. Hence, the petitioner and their family members filed O.S.No.249 of 2007 before the District Munsiff Court, Palladam for declaration that their father Jeyakumaran has attained civil death and he is presumed to be dead and the same was decreed on 06.03.2008. Thereafter, they filed an application dated 10.06.2008 before the Tahsildar, Palladam to enter the death of her father in birth and death register and vide proceeding in Mu.Mu.10529/2007/A5 dated 04.07.2008, the Tahsildar directed the Executive Officer, Pallapalayam Panchayat Union, Palladam to enter the death of A.Jayakumaran in the birth and death register maintained by them.

4. Thereafter, the petitioner, who had passed 12<sup>th</sup> and having diploma in Co-operative training, applied for an appointment on compassionate ground and enclosed all relevant documents along with the application. The sisters of the petitioner have also given no objection certificate for the appointment of the petitioner on compassionate ground. But. The 2<sup>nd</sup> respondent in Na.Ka.455/2012 Pa.Tho dated 29.04.2014 quoting Government Letter in Na.Ka.26401/Ch.1/2013-2 Co-operation, Food and Consumer Protection Department dated 13.01.2014 informed that the person applying on compassionate ground is not eligible for appointment if that person is married prior to the death of the person under whom it is claimed. The said letter is against the Government Orders passed by the Government, especially G.O.Ms.No.165 dated 30.08.2010. Challenging the same, the Writ Petition has been filed by the petitioner.

5. The learned counsel for the petitioner submitted that petitioner's application for appointment for compassionate ground was rejected on the sole ground that she got married on 24.10.2004 prior to the declaration of the death of her father in O.S.No.249 of 2007.

6. The learned counsel for the petitioner also submitted that in the identical situation, this court in several Writ Petitions passed order and directed the respondent therein to provide compassionate appointment for married daughter also.

7. It would be appropriate to extract the relevant portion in one of the judgment relied upon by the learned counsel for the petitioner in W.P.No.19565 of 2015 dated 13.04.2015, which reads as follows:

" 21. Later, the Government made certain improvements to G.O.Ms.No.560 by issuing G.O.Ms.155 Labour and Employment Department, dated 16.07.1993. The said Government Order i.e., G.O.Ms.No.155 provides compassionate appointment to daughters of a Government servant, if the daughter was abandoned by her husband or a divorcee or a widow. That is, apart from unmarried daughters, G.O.Ms.No.155 has included certain categories of women to claim compassionate appointment. However, discriminatory treatment was not removed in total, i.e., while marriage is not a condition prescribed in the matter of providing compassionate appointment to sons of a deceased Government Servant, the same was placed as a condition in the case of daughters.

22. Now a further improvement is made in the latest Government Order in G.O.Ms.No.165 dated 30.08.2010. As per the said Government Order, the married daughter could also claim compassionate appointment, if she was unmarried at the time of making application. In the said Government Order, it is stated taking into account the decisions of this Court, such relaxation was granted in providing compassionate appointment to the married daughters, who got married subsequent to the death of the father and more particularly after making application for compassionate appointment."

Relying on the judgment, it could be seen as per G.O.Ms.No.165 dated 30.08.2010 of Labour and Employment Department, married daughter can also claim compassionate appointment.

8. In this regard, it would be appropriate to extract the judgment of this Court made in 2008(5) CTC 686

"In view of the Division Bench Judgment, which has already settled the controversy in this matter, the impugned order challenged in this Writ Petition is set aside and the second respondent is directed to issue appointment order

to the petitioner on compassionate ground without reference to the marriage of the petitioner, in terms of the order passed by the Division Bench of this Court. Necessary order is directed to be passed by the second respondent within a period of four weeks from the date of receipt of a copy of this order.

9. Therefore, the issue involved in this matter is squarely covered by the judgment delivered in the above writ petitions and I am of the opinion that the present writ petition is liable to be allowed.

10. Accordingly, this writ petition is allowed and the order passed by the 2<sup>nd</sup> respondent in Na.Ka.455/2012, dated 29.04.2014 is set aside and consequently, the second respondent is directed to consider the claim of the petitioner to provide employment on compassionate ground to the petitioner, if she is otherwise eligible and such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

To

1.The Registrar of Co-operative Societies,  
No.170, NVN Maligai,  
Kilpauk, Chennai-10. सत्यमेव जयते

2.The Deputy Registrar of  
Co-operative Societies,  
Coimbatore Circle,  
Coimbatore.

+1 CC to Mr. M.S. Palaniswamy, Advocate Sr.No.56307  
+1 CC to Government Pleader, Sr.No.56798

W.P.No.11914 of 2016

SR (CO)  
MD : 26/10/2016