

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.15620 of 2016

P.Gayathri

.. Petitioner

Vs.

1. The Inspector General of Police,
Mylapore, Chennai.

2. The Additional Director General of Police
and Inspector General of Prison,
Egmore, Chennai-600 008.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to consider the petitioner's representations, dated 29.12.2015 and 03.02.2016 and thereby direct the respondents to appoint the petitioner in the respondents-Department in any one of the post according to her educational qualification under the compassionate ground without any delay.

For Petitioner : Mr.B.Sundara Pandiyan
For Respondents : Mr.D.Suriya Narayanan,
Govt. Advocate

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to consider the petitioner's representations, dated 29.12.2015 and 03.02.2016 and thereby direct the respondents to appoint the petitioner in the respondents-Department in any one of the post according to her educational qualification under the compassionate ground without any delay.

2. In the affidavit filed in support of the Writ Petition, it is averred by the petitioner that her father Late K.Perumal, initially joined as Police Constable in the respondents-Police Department; subsequently, he was promoted as Head Constable and lastly, he worked in the Central Prison, Vellore. He died on 25.09.1995 while he was in service, leaving behind the petitioner, her mother Smt.Vijaya and her younger brother

Mr.P.Nandhakumar as his legal heirs. At the time of the death of the petitioner's father, she was minor and aged about 11 years and now she had completed her B.Sc.-Bio-Chemistry course. She is unable to continue her studies due to the unexpected death of her father and due to poverty. As soon as the petitioner attained majority, she approached the respondents and gave several representations including the one dated 29.12.2015, seeking for employment opportunity under compassionate grounds, but the respondents-Police Department had not considered the same. Lastly, she gave another representation, dated 03.02.2016 with all necessary enclosures, which has also not yet been considered by the respondents. Hence, the petitioner has filed this Writ Petition for the relief stated supra.

3. The second respondent has filed counter affidavit stating that Prison Department is an independent Department under the Government of Tamil Nadu and not a subordinate wing under the Police Department. The petitioner's father was appointed as Grade-2 Warder in Central Prison, Vellore on 01.06.1983 and not as a Police Constable as averred by the petitioner. It is further stated that he was found dead on the Railway upline in between Mugudharayapuram and Walaja Road Railway Stations on 25.09.1995 while he was posted for special duty at Central Prison, Chennai from 22.09.1995. His wife, i.e. the mother of the petitioner, was working as Grade-2 Warder in Special Prison for Women, Vellore from 31.03.1981 onwards and as on date, she is working as Chief Head Warder in Special Prison for Women, Puzhal and she is an active Government servant and was working in the said post at the time of the death of the petitioner's father. Therefore, it cannot be construed that the petitioner's entire family was struggling a lot for their daily bread due to the demise of the petitioner's father and no indigent circumstance arise in the family of the petitioner. Hence, the averment that the petitioner's father alone was an earning person in the family, is not true. Mere death of a Government servant in harness, does not entitle the family of the deceased-employee to claim Government employment on compassionate grounds. The scheme of granting Government employment under compassionate grounds, had been constituted with the sole aim of helping the family of the deceased Government servant, in indigent circumstances, and with no member of the family earning any income.

4. It is further stated in the counter affidavit that the Government in their Letter (Ms).No.40, Labour and Employment (Q1) Department, dated 05.01.1990 have specifically stated that after a thorough review of the scheme of providing employment on compassionate grounds to the legal heirs of a deceased Government servant in indigent circumstances, have stated that if any person is found to be in a financially sound position to

earn, it shall be considered that the family of the deceased Government servant is not in indigent circumstances. It is further stated that from the petitioner's representation to the Chief Minister, dated 25.08.2015, it is inferred that the petitioner was married at the time of making her representation for employment on compassionate grounds. It is further stated in the counter affidavit that in G.O.(Ms).No.165, Labour and Employment Department, dated 30.08.2010, it is stated that married daughter of the deceased Government servant can be given employment on compassionate grounds, provided she applied for the employment before getting married and fulfils the other conditions of employment on compassionate grounds. It is further stated that as per the Government Letter (Ms).No.202, Labour and Employment Department, dated 08.10.2007, the very purpose of giving compassionate ground appointment scheme is only to help the family of the deceased Government servant to tide over the sudden indigent circumstance unexpectedly created by the sudden and untimely death of the Government servant. So, the appointment should be provided immediately to redeem the family in distress and the provision of compassionate appointment after a lapse of very long time, defeats the very purpose of the compassionate ground appointment scheme.

5. It is further stated in the counter affidavit that the following facts of the petitioner's case clearly violate the prevailing Government orders in which it is regulating appointment on compassionate grounds :

(i) The petitioner's mother was in Government service at the time of death of the petitioner's father and she is still working in the Department.

(ii) The petitioner has made belated representation for employment after almost 20 years since the death of her father.

(iii) The petitioner has married at the time of her application for employment on compassionate grounds.

Hence, the respondents pray for dismissal of the Writ Petition.

6. Heard both sides and perused the materials available on record.

7. It is seen that the petitioner's father died as early as on 25.09.1995. At that time, she was a minor and aged about 11 years. It is stated by the petitioner that after attaining majority, she has given representation seeking appointment on compassionate grounds. There is no document produced to substantiate the claim seeking appointment on compassionate grounds. Therefore, it is clear that the representations, dated 29.12.2015 and 03.02.2016, seeking compassionate appointment, was made after 21 years after the death of the petitioner's father on 25.09.1995. Further, the petitioner's mother is

working as Government servant, i.e. in the Prison Department itself. Moreover, the petitioner had been married at the time of making her representation, dated 25.08.2015 to the Chief Minister, seeking employment on compassionate grounds. Therefore, looking at from any angle, there is no merit in this Writ Petition. The Writ Petition is liable to be dismissed. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

Copy to

1. The Inspector General of Police,
Mylapore, Chennai.
2. The Additional Director General of Police
and Inspector General of Prison,
Egmore, Chennai-600 008.

+lcc to Mr.B.Sundarapandiyar, Advocate Sr.63762
+lcc to the Government Pleader sr.63951

सत्यमेव जयते

W.P.No.15620 of 2016

br[co]
srg 05/12/2016

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