

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.2648 of 2015

And

M.P.Nos.1 and 2 of 2015 and

W.M.P.No.16350 of 2016

S.Shanmugarajam ... Petitioner

Vs.

- 1 The Managing Director
Tamilnadu Housing Board,
No.493, Anna Salai, Nandanam,
Chennai - 600 035.
- 2 The Assistant Secretary, (Management)
Tamilnadu Housing Board,
No.493, Anna Salai, Nandanam,
Chennai - 600 035.
- 3 The Executive Engineer cum Administrative Officer,
Tamilnadu Housing Board,
Tirunelveli District. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent herein in his proceeding in Letter No.Pa.Tho.Nu. A.3/320/2014 dated 02.05.2014 and quash the same and consequently direct the respondents herein to give appointment to the petitioner on compassionate ground based upon the petitioner's qualification.

For Petitioner : Mr.T.Dharani
For Respondents : Mr.V.Anandamurthy

O R D E R

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

2.The present writ petition has been filed seeking a Certiorari Mandamus calling for the records of the second respondent herein in his proceeding in Letter No.Pa.Tho.Nu. A.3/320/2014 dated 02.05.2014 and quash the same and consequently direct the respondents herein to give appointment to the petitioner on compassionate ground based upon the petitioner's qualification.

3.It is the case of the petitioner that her father Kathiresan was working as Watchman under the control of the third respondent and he died in harness on 05.05.2013 leaving behind his wife and daughters including the petitioner as his legal heirs. Thereafter, the petitioner made an application dated 18.11.2013, to the respondents seeking appointment on compassionate grounds. The petitioner is a Graduate in B.Sc. Chemistry and she also possess Diploma in Computer Application and the other legal heirs of her father have also given no objection. While so, the second respondent vide order dated 02.05.2014, rejected her request for appointment on compassionate grounds for the reason that she is married and hence, her name could not be considered for compassionate appointment. Challenging the same, the petitioner has filed the present writ petition.

4.The learned counsel appearing for the petitioner in support of his contentions relied upon the decision of this Court reported in (2014) 8 MLJ 268 (P.R.Renuka Vs. Director of Animal Husbandry, Central Government Office Buildings, Chennai - 6 and others) and would submit that the respondents ought to have considered the claim of the petitioner for appointment on compassionate grounds and prayed for appropriate orders.

5.Heard the submissions of the learned counsel appearing for the petitioner and the learned counsel who takes notice for the respondents.

6.The petitioner herein is resting her claim for compassionate appointment mainly based on the dictum laid down in (2014) 8 MLJ 268 (P.R.Renuka Vs. Director of Animal Husbandry, Central Government Office Buildings, Chennai - 6 and others), wherein, this Court has placed reliance upon various decisions of this Court and quashed the order impugned therein and directed the third respondent therein to provide

compassionate appointment to the petitioner therein. The relevant portion of the said judgment is as follows:

"As rightly contended by the learned counsel for the petitioner, the matter is squarely covered by a decision dated 02.07.2012 rendered by me in W.P.(MD) No.8686 of 2011. Paragraph 9 of the judgment is extracted hereunder:

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 G.Girija v. Assistant Director (Panchayats) Kancheepuram, Kancheepuram District 2008 5 CTC 685, applies to the facts of this case. In the said case, the Government servant died on 26.02.1991. The daughter got married on 10.09.2006. She gave an application for compassionate appointment on 02.06.1997. 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 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.Considering the submissions made on either side and in view of the decision cited supra, the impugned order dated 02.05.2014 is hereby set aside and the matter is once again

remit back to the respondents for fresh consideration. The respondents are directed to pass appropriate orders on the petitioner's application/ representation dated 18.11.2013, on merits and in accordance with law and in the light of the decision of this Court reported in (2014) 8 MLJ 268 (P.R.Renuka Vs. Director of Animal Husbandry, Central Government Office Buildings, Chennai - 6 and others), within a period of six weeks from the date of receipt of a copy of this order.

8.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1 The Managing Director
Tamilnadu Housing Board,
No.493, Anna Salai, Nandanam,
Chennai - 600 035.
- 2 The Assistant Secretary, (Management)
Tamilnadu Housing Board,
No.493, Anna Salai, Nandanam,
Chennai - 600 035.
- 3 The Executive Engineer cum Administrative Officer,
Tamilnadu Housing Board,
Tirunelveli District.

+1cc to Mr.V. Anandha Moorthy, Advocate, S.R.No.56924
+1cc to Mr.T. Dharani, Advocate, S.R.No.56692

RSI (CO)
MD(3/11/2016)

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