

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 08.11.2016

Delivered On: 02.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.4732 of 2015

and M.P.No.1 of 2015

Selvi M.Latha

.. Petitioner

vs.

1.The State of Tamil Nadu rep by
its Secretary to Government,
School Education Department,
Secretariat, Chennai-600 009.

2.Director of School Education,
College Road, Chennai-600 006.

3.District Educational Officer,
Vellore, Vellore District. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 3rd respondent in his proceedings Na.Ka.No.5928/A1/2009 dated 30.01.2015, quash the same and direct the respondents to appoint the petitioner as Junior Assistant on compassionate ground as per the list published as on 31.12.2012 in respect of Vellore District and confer all the consequential benefits.

For Petitioner : Mr.P.Ganesan
for M/s.C.S.Associates
For Respondents : Mr.K.Dhananjayan,
Special Government Pleader

O R D E R

The Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus to quash the order passed by the third respondent in his proceedings Na.Ka.No.5928/A1/2009 dated 30.01.2015 and direct the respondents to appoint the petitioner

as Junior Assistant on compassionate ground as per the list published as on 31.12.2012 in respect of Vellore District and confer all the consequential benefits.

2. The petitioner's father namely N.Munusamy died on 04.08.2001, while he was working as Secondary Grade Assistant in Panchayat Union Elementary School, Panapakkam, Nemili Union, leaving behind four children viz., M.Boopalan, M.Dhinakaran, M.Srinivasan and the petitioner herein. As per the Scheme of Compassionate Appointment, the petitioner's elder brother M.Boopalan applied for compassionate appointment on 21.10.2002 and since there was ban on appointments between 2001 and 2006, her brother was not considered for compassionate appointment. In the meanwhile, her elder brother M.Boopalan met with an accident on 21.02.2004 and expressed his unwillingness to take appointment as his right lower limb got injured and steel plate was fixed. The petitioner, immediately after getting No Objection Certificate from other brothers, applied for compassionate appointment. However, the respondent passed the impugned order dated 11.01.2014 rejecting her claim for compassionate appointment on the ground that there is no provision to give compassionate appointment to other legal heir as if the compassionate appointment could be given only for the first legal heir. Challenging the same, the petitioner filed W.P.No.5890 of 2014 and this Court, vide order dated 28.02.2014, directed the respondents to consider her claim for compassionate appointment. However, the third respondent instead of considering her claim for compassionate appointment, vide order dated 09.05.2014, rejected the petitioner's request on the ground that the sons of the deceased are employed and therefore, compassionate appointment cannot be given by placing reliance upon G.O.Ms.No.998, Labour and Employment Department dated 02.05.1981. Challenging the order of rejection, the petitioner also filed W.P.No.21278 of 2014 and this Court, vide order dated 15.09.2014, directing the respondents to reconsider the claim of the petitioner for compassionate appointment. Since the said order was not complied with, the petitioner has filed Cont.P.No.64 of 2015, wherein this Court ordered notice and pursuant to the same, the respondents once again rejected the petitioner's request vide order dated 30.01.2015, based on which the contempt petition was closed by this Court. Challenging the order dated 30.01.2015, the petitioner has come forward with this writ petition.

3. When the matter is taken up for consideration, learned counsel appearing for the petitioner by adverting to the averments made in the affidavit and would contend that on the date of submitting the application for compassionate appointment, none of her brothers were employed and that is the reason why, the petitioner's name was included in the Waiting

List maintained for compassionate appointment and during the intervening period two of her brothers got appointment in Central and State Government respectively and one other brother had engaged in power loom business and even in the impugned order it is stated that the petitioner is eking out her livelihood with the support of her brothers and hence, petitioner prays for appropriate orders.

4. Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents has drawn the attention of this Court to the counter affidavit wherein it has been stated that two of the brothers of the petitioner, namely Boopalan and Srinivasan are employed in the Central Government and State Government respectively and another brother is doing power loom profession and the petitioner has not married so far and living with her brother, which was admitted by the petitioner himself in her letter dated 24.01.2015 and hence, it is evident from the said letter that the family is having sufficient income and not in indigent situation. Further, G.O.Ms.No.998 dated 02.05.1981 clearly specifies that the appointing authority before providing appointment on compassionate ground should satisfy about the indigent situation of the applicant than relying upon the certificates issued by the authorities and hence, considering the family situation, the third respondent has rightly rejected the petitioner's request vide order dated 30.01.2015. Thus, the learned Special Government Pleader sought for dismissal of this writ petition.

5. Keeping the submissions made on either side, I have gone through the entire materials available on record.

6. Admittedly the family of the petitioner is able to survive after the demise of her father. The object of giving compassionate is to provide security to the family of the deceased. In the present case, the petitioner's family is well supported by her brothers, as two of them got employment in Central Government and State Government respectively and one other brother has engaged in Power Loom business and they have sufficient income to protect the family and hence, the petitioner has not fulfilled the basic requisite of the scheme of the compassionate ground appointment.

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6. In the result, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jvm

To

1.The Secretary to Government,
The State of Tamil Nadu,
School Education Department,
Secretariat, Chennai-600 009.

2.Director of School Education,
College Road, Chennai-600 006.

3.District Educational Officer,
Vellore, Vellore District

+1cc to Mr.C.S. Associates, Advocate, S.R.No.71726
+1cc to the Government Pleader, S.R.No.71702

sk(CO)
md(23/01/2017)

सत्यमेव जयते W.P.No.4732 of 2015

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