

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.39110 of 2016

Esther Rani

... Petitioner

vs.

1. The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai 600 003.

2. The Zonal Officer,
Zone VI,
Greater Chennai Corporation,
No.5, Anderson Road,
Ayanavaram,
Chennai 600 023.

... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of certiorarified mandamus, calling for the records of the respondents in connection with the impugned order issued by the 2nd respondent in Ma.A6.Na.Ka.No.A2/12289/2016, dated 30.09.2016 and quash the same and direct the respondents to appoint the petitioner on compassionate grounds.

For Petitioner : Mr.M.Muthappan
For Respondents : Mr.G.Anantharangan

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the impugned order dated 30.09.2016 passed by the 2nd respondent vide proceedings in Ma.A6.Na.Ka.No.A2/12289/2016 and for a consequential direction to the respondents to appoint her on compassionate grounds.

2. According to the petitioner, her father A.Kondiah, who was serving as a Driver in Zone VI of the Greater Chennai Corporation, died due to ill health on 20.02.2015, while in service. He left his wife viz. Anthony Amma, aged about 50 years and daughter, viz. Esther Rani, aged 24 years, i.e. the

petitioner herein, as his legal heirs. The death-cum-retirement benefits due to the deceased were given to the petitioner.

3. It is the further case of the petitioner that immediately after the death of her father, she made a representation to the respondents seeking appointment on compassionate grounds on 09.07.2015, in view of the fact that even though she is married to one Yobbu, who is her near relative, her husband is unemployed. For the purpose of securing appointment to the petitioner on compassionate grounds, the petitioner's mother has also given a No Objection letter. Further, the petitioner has also produced all the relevant documents to the respondents. But, after a lapse of one year, the 2nd respondent has passed the impugned order rejecting the claim of the petitioner on the sole ground that she is a married woman and that she is not entitled to be appointed on compassionate grounds in view of the Government Order vide G.O.D.No.165, Labour & Employment Department, dated 30.08.2010. Challenging the impugned order, the petitioner is before this Court.

4. When the matter is taken up for consideration, learned counsel for the petitioner, relying on a judgment of the Madurai Bench of this Court in W.P.(MD) No.2107 of 2016, dated 29.01.2016 in the case of T.Radhamani vs. The Director of Agriculture, Chennai, contended that the Government cannot deny compassionate appointment to the daughter of the deceased Government Servant on the ground of marriage.

5. Learned counsel appearing for the respondent Corporation, by filing a counter, submitted that the petitioner while seeking appointment on compassionate grounds had been married and that the 2nd respondent passed the impugned order based on the Government Order in G.O.No.165, Labour and Employment (Q2) Department, dated 30.08.2010, which says that employment on compassionate grounds cannot be provided to the married female legal heir of the deceased Government employee.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. For better appreciation of the case, relevant portion of the judgment rendered by this Court in W.P.(MD) No.2107 of 2016, dated 29.01.2016 in the case of T.Radhamani vs. The Director of Agriculture, Chennai, is extracted hereunder:

"6.

16. The reference column of G.O.Ms.No.96 refers to G.O.Ms.No.212 P & AR Department, dated 29.11.2001. That

Government Order, namely G.O.212, is relating to imposition of ban on recruitment in Government service. Hence, I fail to understand as to how the date viz., 29.11.2001 has any nexus to the object of the scheme providing compassionate appointment to the married daughters. Hence, I have no hesitation to declare that the cut-off date fixed in G.O.Ms.No.96 as 29.11.2001 is arbitrary, illegal and unconstitutional. By such declaration and by quashing paragraphs 3 and 4 of the aforesaid G.O.Ms.No.96 in so far as fixing 29.11.2001 as the cut-off date, the discrimination meted out to married daughters will be totally wiped out. Accordingly, paragraphs 3 and 4 of G.O.Ms.No.96 Labour and Employment Department, dated 18.06.2012 fixing cut-off date as 29.11.2001 are quashed.

17. In fact, the third respondent passed the impugned order without any application of mind and also in violation of G.O.Ms.No.96 dated 18.06.2012. The daughters, who got married after 29.11.2001, are entitled to seek compassionate appointment as per G.O.Ms.No.96. In the impugned order, the third respondent has mentioned the date of marriage of the petitioner as 01.05.2002. If that be so, the petitioner is entitled to compassionate appointment even as per G.O.Ms.No.96. In fact the date of marriage is erroneously mentioned in the impugned order as 01.05.2002, whereas, the date of marriage is 19.02.1999. Since the marriage of the petitioner took place on 19.02.1999, which is prior to the cut-off date of 29.11.2001 as fixed in the G.O.Ms.No.96, the impugned order declined to provide compassionate appointment, based on G.O.Ms.No.96.

18. Since I have quashed the fixation of 29.11.2001 as cut-off date for married daughters to claim compassionate

appointment , the impugned order, dated 20.03.2013 is also set aside and a direction is issued to the third respondent to provide compassionate appointment to the petitioner, within a period of eight weeks from the the date of receipt of a copy of this order.

7. From the above said judgment, it is clear that this Court held in categorical terms that the Government cannot deny compassionate appointment to the daughter of the deceased Government servant on the ground of marriage and quashed the Government Orders denying compassionate appointments to the married daughters. It is relevant to note that the deceased Government servant had left behind his wife and his only daughter/petitioner and he had no male issues.

8. For all the foregoing reasons, the impugned order is quashed and a direction is issued to the respondents to provide compassionate appointment to the petitioner, without reference to marriage, if she is otherwise eligible. Such exercise shall be undertaken within a period of eight weeks from the date of receipt of a copy of this order.

8. Following the said judgment, this Court quashes the impugned order dated 30.09.2016 passed by the 2nd respondent herein and directs the respondents to provide compassionate to the petitioner, without reference to her marriage, if she is otherwise eligible. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

The Writ Petition is allowed with the above direction. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai 600 003.

2. The Zonal Officer,
Zone VI,
Greater Chennai Corporation,
No.5, Anderson Road,
Ayanavaram, Chennai 600 023.

+1cc to Mr.Anantharangan, Advocate, S.R.No.70892

VGI (CO)
RS (15/02/2017)

W.P.No.39110 of 2016



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