

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.42861/2016

G.Usharani .. Petitioner

Vs.

1.The District Collector
Karur.

2.The Tahsildar
Karur.

3.The Revenue Divisional Officer
Karur. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records made in the impugned order of the 1st respondent in Letter Na.Ka.No.1/5136/2015 dated 30.08.2016 and quash the same and further direct the respondents to provide suitable employment to the petitioner on compassionate ground in the light of the order passed in WP.No.22171/2013 dated 13.08.2013.

For Petitioner : Ms.Gajalakshmi

For Respondents : Mr.P.Chinnadurai, GA

ORDER

By consent, the writ petition is taken up for final disposal. Mr.P.Chinnadurai, learned Government Advocate accepts notice on behalf of the respondents.

2 The petitioner in the affidavit filed in support of the writ petition, would aver among other things that her father namely, Gandhi, was employed as a Village Assistant, in the office of the 1st respondent and he died due to heart attack on 17.06.2015, leaving behind the petitioner and her mother namely Chellammal. According to the petitioner, her father was the sole breadwinner of the family and on account of his untimely demise, her mother could not maintain the family as she was not having any independent income and the terminal benefits disbursed, was also not enough to meet the marriage expenses and that apart, there is no male legal heir in the family. It is the specific case of the petitioner that even after marriage, she continues to live with her mother and she is taking care of her mother's health. Therefore, the petitioner's mother made a request for appointing the petitioner on compassionate ground and the petitioner has also made a similar request, vide representation dated 05.08.2015. Subsequently,

the 1st respondent, vide letter dated 30.08.2016 called for additional particulars and it was also furnished and however, to the shock and surprise of the petitioner, the request made by her seeking compassionate appointment was rejected on the ground that the petitioner got married even during the life time of her father on 02.07.2010 and as such, her case cannot be considered. Challenging the legality of the order, the petitioner has filed the present writ petition.

3 The learned counsel for the petitioner has drawn the attention of this Court to the order dated 21.08.2014 made in WP.No.19744/2014 [*K.Akhila Vs. the District Collector, Karur and two others*], and would submit that in similar facts and circumstances, this Court, has taken note of the orders passed in WP [MD] No.8686/2011 and WP.No.22171/2013 and also taken into consideration G.O.Ms.No.165, Labour and Employment [O-2] Department dated 30.08.2010, has allowed the writ petition with a further direction to reconsider the request of the petitioner therein and would contend that the marriage of the petitioner may not be a bar for providing compassionate appointment and prays for quashment of the impugned order with a consequential direction.

4 This Court heard the submissions of Mr.P.Chinnadurai, learned Government Advocate appearing for the respondents.

5 It is relevant to extract the order made in WP [MD] No.8686/2011, which reads thus:-

"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 **2008 [5] CTC 685 [G.Girija Vs. The Assistant Director [Panchayats], Kancheepuram, Kancheepuram District]** 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.”

6 In the light of the above cited judgment, the marriage of the petitioner prior to the demise of her father, cannot be a bar for processing the application submitted by her seeking appointment on compassionate ground. The petitioner in paragraph 3 of the affidavit has also specifically averred that she is living with her mother and she is taking care of her mother's health also. Her mother has also submitted a representation on her behalf praying for compassionate ground appointment to the petitioner and as such, there cannot be any impediment to consider the request made by the petitioner on merits and in accordance with law.

7 In the result, the writ petition is partly allowed and the impugned order passed by the 2nd respondent dated 30.08.2016 is set aside and the matter is once again remanded to the 2nd respondent for fresh consideration and the 2nd respondent is directed to consider the said application submitted by the petitioner seeking compassionate ground appointment on merits and in accordance with law and pass orders within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs.

08.12.2016

Index : No
Internet : Yes

AP

To

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Karur.

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M.SATHYANARAYANAN, J.,

AP

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