



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2016

CORAM:

**THE HONOURABLE MR.JUSTICE S.MANIKUMAR**

**AND**

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN**

W.A. (MD) .No.488 of 2016

and

C.M.P (MD) .No.3477 of 2016

1. The Inspector General of Registration,  
100, Santhome High Road,  
Office of the Inspect General of Registration,  
Chennai 600 028.
2. The Personal Assistant [General],  
O/o.Inspector General of Registration,  
Chennai 600 028.
3. The District Registrar [Administration],  
Rajan Road, Srinivasapuram,  
Tanjore, Thanjavur District. ... Appellants

Vs.

Suganya ... Respondent

**PRAYER:** Writ Appeal is filed under Clause 15 of the Letters Patent against the Order dated 10.02.2015 made in W.P.(MD).No.2748 of 2014 on the file of this Court.

**Prayer in WP(MD) . 2748/ 2014 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus or any other appropriate writ or direction to call for the Records of the 2nd Respondent in his proceedings in Mu.Mu. No. 48964/K2/2011 dated 25.11.2011 and quash the same as illegal, violation of principles of law and further direct the respondents to provide employment to the petitioner under compassionate grounds in the Registration Department within the stipulated period fixed by this Hon'ble Court.



For Appellants : Mr.A.K.Baskara Pandian  
Special Government Pleader

For Respondent : Mr.M.Jothi Basu

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### JUDGMENT

[Judgment of the Court was delivered by S.MANIKUMAR,J.]

Challenge in this Writ Appeal is to the order dated 10.02.2015 made in W.P.(MD).No.2748 of 2014.

2. Writ Petition has been filed challenging the order dated 25.11.2011, in and by which, the request of the Writ Petitioner for appointment on compassionate ground has been rejected, on the ground that she is a married daughter of the deceased employee.

3. The issue involved in this Writ Appeal is no longer res integra. A Hon'ble Division Bench of this Court, vide Judgment dated 14.07.2015 made in Writ Appeal.(MD).No.751 of 2015 [The Commissioner and Secretary to Government Vs.Angelin Lini] has considered a similar issue and held as follows:-

"6.Defending the impugned order made in W.P.(MD) No.9056 of 2014, dated 09.06.2014, and inviting the attention of this Court to the orders made in W.A.(MD) No.216 of 2013, dated 27.06.2014, in the matter of Adhilakshmi vs. The District Collector, Madurai District and another, and another order made in W.A.No.635 of 2015, dated 23.04.2015, in the matter of The Assistant Primary Education Officer, Anthiyur and two others vs. Kayalvizhi, learned counsel for the respondent submitted that the challenge to the impugned order on the grounds that married daughter is ineligible for employment assistance on compassionate grounds is untenable. Learned counsel for the respondent submitted that irrespective of the fact that whether marriage solemnized was anterior or later, in point of time, the question to be considered is whether married daughter is eligible for appointment or not. He further submitted that the Hon'ble Supreme Court in Shreejith L. v. Director of Education, Kerala, reported in (2012) 7 SCC 248, has held that marriage by itself does not disqualify a person concerned from seeking employment assistance. He further added that the dictum of the Hon'ble Apex Court has been duly considered by a Hon'ble Division Bench of this Court in w.A.(MD)No.216 of 2013, dated 27.06.2014, and, for the above reasons, the appeal deserves to be dismissed.



7. Heard the learned counsel for the parties and perused the materials available on record.

8. Facts deduced from the order made in W.A. (MD) No. 216 of 2013, dated 27.06.2014, are that the Government Servant died on 02.04.2002. Immediately, mother of the appellant therein made an application seeking employment assistance, on compassionate grounds. The said request was rejected on the ground inter alia that the appellant was married, at that time and as per G.O. (Ms) No. 9, Labour and Employment (Q1) Department, dated 19.01.1998, married daughters are not eligible for employment assistance compassionate grounds. When the said order was assailed, the writ petition was dismissed. On appeal, placing reliance on the decision of the Hon'ble Supreme Court in Shreejith, L vs. Deputy Director (Education), Kerala and others - (2012) 7 SCC 248, arguments have been made that married daughters cannot be made ineligible. Accepting the said contention, the Hon'ble Division Bench of this Court at Paragraph Nos. 10 and 11 of its order, in W.A. (MD) No. 216 of 2013, dated 27.06.2014, ordered as follows:

"10. On consideration of all the materials, it is seen that there are Rules and Government Orders laying down the conditions for compassionate appointment. The appellant fulfils all the conditions. Her application was not considered at the time when the application was made due to ban order on recruitment. Even after lifting the ban order, the respondents did not consider the application of the appellant. Further, the respondents cannot rely on the Government Order, which denies the compassionate appointment to married daughters, in view of the Judgment of the Apex Court reported in 2012 (7) SCC 248 [Shreejith. Vs. Deputy Director (Education) Kerala and Others]. Further, as rightly contended by the learned counsel appearing for the appellant, the fact that the appellant's family is in indigent position, is not in doubt, as they did not have even money for funeral expenses.

11. For the reasons stated above, the writ appeal is allowed, we set aside the impugned order, dated 17.09.2010, made in W.P. (MD) No. 1813 of 2009. The writ petition shall stand allowed and we direct the first respondent to consider the application of the appellant in the light of the Judgment of the Apex Court in 2012 (7) SCC 248 [Shreejith. L Vs. Deputy Director (Education) Kerala and Others], within four weeks from the date of receipt of a copy of this



judgment."

9. Perusal of the order made in W.A.635 of 2015, dated 23.04.2015, shows that being aggrieved by the direction given by the Writ Court to consider the claim of the respondent therein, a married woman, for employment assistance, intra court appeal has filed. Taking note of an earlier order made in W.P.No.22709, dated 08.12.2014 (P.Kamatchi vs. The State of Tamil Nadu and another), another Hon'ble Division Bench of this Court has dismissed the challenge made by the official respondents, for the reasons recorded at paragraph No.2, which is reproduced.

"2. This Court, while considering the entitlement of married daughter in the order dated 08.12.2014 in W.P.No.22709 of 2014 (P.Kamatchi vs. The State of Tamil Nadu and another), has held as under:

The case of the petitioner is that the petitioner was married only on 20.08.2012 and as such, she is entitled to be considered subject to certain conditions, which are prescribed in the said G.O. On perusal, it appears that the petitioner has one younger sister by name Thamizharasi. It is not clear as to whether her younger sister is eligible for appointment or not. However, the petitioner even if she is a married daughter of the deceased employee, she is entitled to consideration subject to certain conditions as stated in the said G.O. The said G.O. reads as under:

Orders are issued with the following conditions for the issuance of appointments among those persons, mentioned as near relatives of the Government Servant, who died in harness, as per G.O.4<sup>th</sup> read above, and by virtue of being an unmarried woman, having submitted an application, seeking appointment, and who subsequently got married before being issued appointment, if they otherwise fulfil other eligibility for their appointment on commissioner grounds.

(i) 'No Objection Certificate' from the remaining members of the family, while being an unmarried woman and after marriage when such woman is issued appointment, again a 'No objection Certificate' from the remaining members of the family shall be submitted.

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(ii) The individual who gets appointment opportunity after being married, shall submit an



undertaking to the effect that they shall be helpful to the parents' family.

(iii) The person who is going to marry the woman, who has sought appointment on compassionate grounds, shall furnish an undertaking that he shall not cause hindrance in helping her parents in future."

10. Decisions of the Hon'ble Division Benches in W.A.(MD)No.216 of 2013, dated 27.06.2014, in the matter of Adhilakshmi vs. The District Collector, Madurai District and another, and in W.A.No.635 of 2015, dated 23.04.2015, in the matter of The Assistant Primary Education Officer, Anthiyur and two others vs. Kayalvizhi, are squarely applicable to the facts of this case. Marriage solemnized, whether anterior or posterior to the date of death of the Government Servant, is immaterial, so long as the applicant satisfies the eligibility prescribed for employment assistance on compassionate grounds. Further, in G.O.Ms.No.185, Labour and Employment (A2) Department, dated 30.08.2010, one of the conditions imposed for providing employment assistance to married daughters of the deceased Government servants is that an undertaking should be obtained from such daughter to the effect that after obtaining employment on compassionate grounds, she would extend all assistance/help to the family.

11. In view of the above discussion and decisions cited supra, we find no grounds to entertain the writ appeal. Accordingly, the writ appeal is dismissed. No order as to costs. Connected miscellaneous petitions are also dismissed".

4. Yet another Hon'ble Division Bench of the Madras High Court has considered a similar issue in W.A.No.804 of 2015, dated 29.06.2015 [The State of Tamil Nadu Vs.Arulmozhi] and held as follows:-

"The instant writ petition was filed by the respondent herein, seeking a writ of certiorarified mandamus to quash the proceedings issued by the second appellant in Na.Ka.No.4/11314/201.3 dated 29/10/2013, whereunder, the application of the respondent for grant of compassionate appointment was rejected and further a direction to provide an appointment to the respondent on compassionate ground on the basis of her educational qualification.

2. The indisputable facts as recorded by the learned Single Judge is that the respondent's father while working as Village Administrative Officer in Revenue



Department, Villupuram District, died on 5/1/2008 in harness, leaving behind the respondent, her sister and mother as legal heirs. The respondent is a married daughter and her husband is unemployed. The respondent has submitted 'No Objection Certificate' of her sister and mother for the purpose of consideration for her appointment on compassionate basis.

3. The learned Single Judge, considering all the facets of the case and also relying on several decisions held that the respondent was wrongly declined compassionate appointment as her marriage is not a disqualification. If the marriage is not a disqualification for the son of a Government Servant, the same could not be cited as a disqualification for the daughter of a Government servant. This issue requires adjudication. However, in the facts of the case, where the deceased has left behind his only two daughters and a widow, the question of law is left open to be considered in an appropriate case.

4. An identical issue came up for consideration before this Court in 23.4.2015 (The Assistant Primary Education Officer, Assistant Primary Education Office, Anthiyur and others Vs. Mrs.Kayalvizhi), wherein it was held as under:

The ratio which arises from the afore-stated observation is, that a married daughter is eligible for consideration subject to submission of 'no objection certificate' of other members of the deceased family and also with an undertaking from her and her husband that she will take care of the other members of the parents' family.

5. We heard the learned counsel for the parties and perused the pleadings and documents appended thereto.

6. It is a trite law that compassionate appointments have to be made as per policy of the State Government. The compassionate appointment is not a right but a facility to get over the difficulties befallen the dependent members of the deceased employee. In the case on hand, since the deceased employee had left behind two daughters and wife, the respondent has to take care of her mother and sister. As a sequitur, the writ petitioner/respondent herein is entitled to consideration for compassionate appointment, subject to submission of 'No Objection Certificate' from other members of the deceased and also an affidavit of undertaking from her and her husband that they will take care of all the members of the deceased family.



Accordingly, we dispose of the writ appeal, directing the appellants/respondents to consider the application of the respondent/writ petitioner afresh, subject to the filing of affidavit of undertaking as afore-stated by the respondent and pass an appropriate order as expeditiously as possible".

5. In view of the above discussion and decisions cited supra, we find no grounds to entertain the Writ Appeal. Accordingly, the Writ Appeal is dismissed, confirming the order dated 10.02.2015 made in W.P.(MD).No.2748 of 2014. The appellants are directed to consider the claim of the respondent/Writ Petitioner and pass appropriate orders, as per the scheme. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-  
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

1. The Inspector General of Registration,  
100, Santhome High Road,  
Office of the Inspect General of Registration,  
Chennai 600 028.
2. The Personal Assistant [General],  
O/o.Inspector General of Registration,  
Chennai 600 028.
3. The District Registrar [Administration],  
Rajan Road, Srinivasapuram,  
Tanjore, Thanjavur District.

+1 cc to the Special Government Pleader, Sr.No.18322

NB

JM/GSV-PM/13.04.2016/7P-5C

JUDGMENT MADE IN  
W.A. (MD) .No.488 of 2016  
30.03.2016