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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2016

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.17141 of 2016

and

W.M.P (MD) No.12423 of 2016

A.Manimala

... Petitioner

vs.

1)The District Collector,
Theni District,
Theni.

2)The Regional Assistant Director of Town Panchayats,
Theni,
Theni District.

3)The Executive Officer,
Selection Grade Town Panchayat,
Pannaipuram,
Theni District.

... Respondents

Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings in Na.Ka.No.20/2016 dated 28.05.2016 and the consequential order passed by the 1st respondent in his proceedings in Na.Ka.No.487/2016/Pe.Roo2 dated 25.07.2016 and quash the same as illegal and consequentially to direct the 1st respondent to appoint the petitioner as Junior Assistant or any other post commensurate to the qualification of the petitioner on compassionate ground within the period that may be stipulated by this Hon'ble Court.

For Petitioner	: Mr.H.Mohammed Imran
For R1 & R2	: Mr.V.Pandi, Government Advocate
For R3	: Mr.M.Rajarajan, Government Advocate

O R D E R

The request of the petitioner for compassionate appointment, has been rejected vide impugned order, on the ground that she is a married daughter. Challenging the same, this writ petition has been filed.



2. The learned counsel for the petitioner has relied upon the decisions in *R. Govindammal vs. The Principal Secretary, Social Welfare and Nutritious Meal Programme Department and 4 others*, reported in 2015 (5) CTC 344 and *M. Indra vs. Director, Institute of Mental Helath, Kilpauk, Chennai*, reported in (2016) 5 MLJ 178, and contended that the issue raised in this writ petition is answered in the above cases, holding that married daughters are also entitled to compassionate appointment.

3. In *R. Govindammal vs. The Principal Secretary, Social Welfare and Nutritious Meal Programme Department and 4 others*, reported in 2015 (5) CTC 344, this Court has held as follows:-

'27. In *Krishnaveni's* case (cited supra), I have referred to 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 and held that the daughters shall be treated alike the sons in providing compassionate appointment. Thus, in the matter of providing compassionate appointment, no distinction shall be made between a son and a daughter.

28. The case on hand is a classic case, wherein, the deceased Government servant has no male issue. Nowadays, it is a common thing that a family have a single child ; either male or female. Thus, if a Government servant has only daughter, as in this case, the widow of the Government servant cannot be stated that her married daughter could not be provided compassionate appointment, particularly, when she has to solely rely on her daughter. As stated above, Maintenance and Welfare of Parents and Senior Citizens Act, also now places equal responsibility on both the son and daughter to take care of their parents.'

4. In *M. Indra vs. Director, Institute of Mental Helath, Kilpauk, Chennai*, reported in (2016) 5 MLJ 178, this Court has held as follows:-

'12. As per G.O.Ms.No.560, dated 03.08.1977, the State Government provides Compassionate Appointment to the wife/husband/son/unmarried daughter on the death of the Government Servant i.e., while the son of the deceased Government Servant is entitled to Compassionate Appointment without reference to marriage, the daughter is not treated equally in providing compassionate appointment and a condition is imposed that the daughter should be unmarried to claim compassionate appointment. Later on, the said another



Government Order was issued in G.O.Ms.No.165, Labour and Employment Department, dated 30.08.2010. In my view, such a scheme of compassionate appointment is arbitrary and violative of Articles 14 and also against Articles 15(1) and 16(2) of the Constitution of India.''

5. In view of the dictum laid down in those cases, the impugned order is set aside and the respondents are directed to consider the representation of the petitioner dated 04.06.2016 in the light of the abovesaid decisions and to pass appropriate orders on merits and in accordance with law, within a period of three weeks from the date of receipt of a copy of this order.

Accordingly, this Writ Petition is allowed. No costs. Consequently, W.M.P(MD)No.12423 of 2016 is closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

To

1) The District Collector,
Theni District,
Theni.

2) The Regional Assistant Director of Town Panchayats,
Theni,
Theni District.

3) The Executive Officer,
Selection Grade Town Panchayat,
Pannaipuram,
Theni District.

+1 cc to M/s.Ajmal Associates in SR No.55107

+1 cc to the Spl.Govt.Pleader in SR No.54701

W.P(MD)No.17141 of 2016
21.09.2016

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