



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2016

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THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.23221 of 2016

and

WMP (MD) No.16660 of 2016

R.Ponmuthuselvi

... Petitioner

vs.

1.Tamil Nadu Electricity Generation and
Distribution Corporation Ltd.,
rep.by its Chief Engineer (Personnel)
144, Anna Salai,
Chennai - 2.

2.The Superintending Engineer,
Viruthunagar Electricity Distribution Circle,
Tamil Nadu Electricity Generation and
Distribution Corporation Ltd.,
Viruthunagar.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus after calling of the records pertaining to the impugned order of the 2nd respondent in Letter No. 008071/NiPi2/Help.2/Ko Compassionate Appointment/2016 dated 23.05.2016 quash the same and declare that the action of the respondents in rejecting the request of the petitioner for compassionate appointment on the ground that she was already married as on the date of making application for compassionate appointment as illegal and unconstitutional and consequently direct the respondents to provide her forthwith compassionate appointment in any suitable post without reference to her marital status as on the date of making application, award costs.

For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.G.Kasinatha Durai

ORDER

The petitioner is a B.Com. Graduate. She seeks compassionate appointment on account of the death of her father who died while in service as Line Inspector as Sevalpatti Sub Station, which comes under the control of the second respondent. The petitioner made representation dated 13.05.2016 to the respondents, seeking



compassionate appointment, but the same was rejected on the ground that before the death of the petitioner's father, all his legal heirs have got married. Hence, this writ petition has been filed seeking to quash the impugned order of rejection dated 23.05.2016 and also for a direction to the respondents to provide compassionate appointment to the petitioner in any suitable post without reference to her marital status as on the date of making application.

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 Health, 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 Health, Kilpauk, Chennai**, reported in **(2016) 5 MLJ 178**, this Court has held as follows:-

<https://hcservices.ecourts.gov.in/hcservices/>

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, this writ petition is allowed. The impugned order passed by the second respondent dated 23.05.2016 is quashed and the respondents are directed to consider the claim of the petitioner for appointment on compassionate grounds in the light of the abovesaid decisions and to provide appointment on compassionate ground, within a period of three weeks from the date of receipt of a copy of this order, suitable to her educational qualification. No costs. Consequently, WMP(MD)No.16660 of 2016 is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

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To

1. The Chief Engineer (Personnel)
Tamil Nadu Electricity Generation and
Distribution Corporation Ltd.,
144, Anna Salai, Chennai - 2.
2. The Superintending Engineer,
Viruthunagar Electricity Distribution Circle,
Tamil Nadu Electricity Generation and
Distribution Corporation Ltd., Viruthunagar.

+1cc to Mr.S.Arunachalam, Advocate Sr.No. 79276
+1cc to Mr.G.Kasinatha Durai, Advocate Sr.No. 78713

JAM/21.02.17 /CM-MSA/3p-5c

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