

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2017

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.7308 of 2014

V.Jeeva

... Petitioner

Vs.

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Commissioner,
Kundrathur Panchayat Union,
Padappai,
Kancheepuram District.

... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the first respondent made in Na.Ka.No.11487/12/PA3, dated 29.07.2013, quash the same and consequently direct the first respondent to consider the petitioner for compassionate appointment.

For Petitioner : Mr.R.Jaikumar

For Respondents: Mr.T.M.Pappiah,
Special Government Pleader

O R D E R

Heard Mr.R.Jaikumar, learned counsel appearing for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader, appearing for the respondents.

2.The petitioner has approached this Court for seeking the following relief,

"To issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the first respondent made in Na.Ka.No.11487/12/PA3, dated 29.07.2013, quash the same and consequently direct the first respondent to consider the petitioner for compassionate appointment."

3. The case of the petitioner is as follows:

The petitioner's father worked as Junior Assistant under the control of the second respondent and died while in service on 22.12.2004. On the death of her father, the family has been placed in difficult financial position, since her father alone was a breadwinner in the family. In the said circumstances, the petitioner had approached the first and second respondents for seeking compassionate appointment and representation was given to that effect on 07.03.2005. However, the second respondent by proceedings dated 09.03.2005, had informed that there was a ban on recruitment and therefore, her request could not be considered. Thereafter, the petitioner made further representation in march 2006 and the said application appeared to have been forwarded to the competent authority in the year 2008.

4. While the petitioner was awaiting for consideration of the request for compassionate appointment, her request came to be rejected by the proceedings of the first respondent on 31.07.2008, on the ground that petitioner had applied for compassionate appointment three years after the death of her father. At this, the petitioner represented that she had originally submitted her request within three years period and therefore, the rejection of her request was on erroneous grounds.

5. While matter stood thus, the first respondent by proceedings dated 29.07.2013, had once again rejected the request of the petitioner, on the ground that the petitioner was married prior to the death of her father and therefore, not eligible for seeking compassionate appointment. The said rejection order is impugned in the present writ petition.

6. The learned counsel for the petitioner would submit that the rejection by the first respondent on the ground that the petitioner was married prior to the death of her father, cannot be sustained in law. In view of the decision passed by this Court, in the case of R.Suseela Vs.The Secretary to Government, Labour and Employment Department, reported in 2016 (1) CWC 63, this Court as held that the denial of benefit of compassionate appointment to married daughter is discriminatory and violative of the Constitution. Moreover, the learned counsel would rely upon the G.O.Ms.No.78, Labour and Employment Department, dated 21.04.2017, in which, the Government has taken a decision that if the legal heirs of deceased Government employees if otherwise entitled to compassionate appointment would not be denied those benefits merely on the ground that they have entered into matrimony either before or after making the application for compassionate appointment. In such view of the matter, the

learned counsel would impress upon the Court to set aside the rejection order passed by the first respondent.

7. Upon notice, the learned Special Government Pleader entered appearance and filed a detailed counter. The learned Special Government Pleader reiterated that since the petitioner is a married daughter and the marriage having taken place prior to the death of her father, her request for compassionate appointment could not be considered favourably.

8. This Court considered the rival submissions made by the counsels and having perused the pleadings and materials placed on record, this Court is of the view that the rejection of the petitioner's request on the said ground, cannot be sustained in law. In view of the decision passed by this Court, which is cited supra and also the subsequent G.O.Ms.No.78, Labour and Employment Department, dated 21.04.2017, the issue is directly covered by the decision of this Court as well as the above said Government Order and therefore, this Court has no hesitation in setting aside the impugned order dated 29.07.2013. Consequently, the first respondent is directed to re-consider the claim of the petitioner for compassionate appointment in terms of the existing scheme and pass appropriate orders within a period of two months from the date of receipt of a copy of this order. It is also made clear that the first respondent shall take into consideration the facts and circumstances which formed the basis for the claim of the petitioner and consider her case sympathetically while passing orders.

9. With the above direction, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gsk

To

1.The District Collector,
Kancheepuram District,
Kancheepuram.

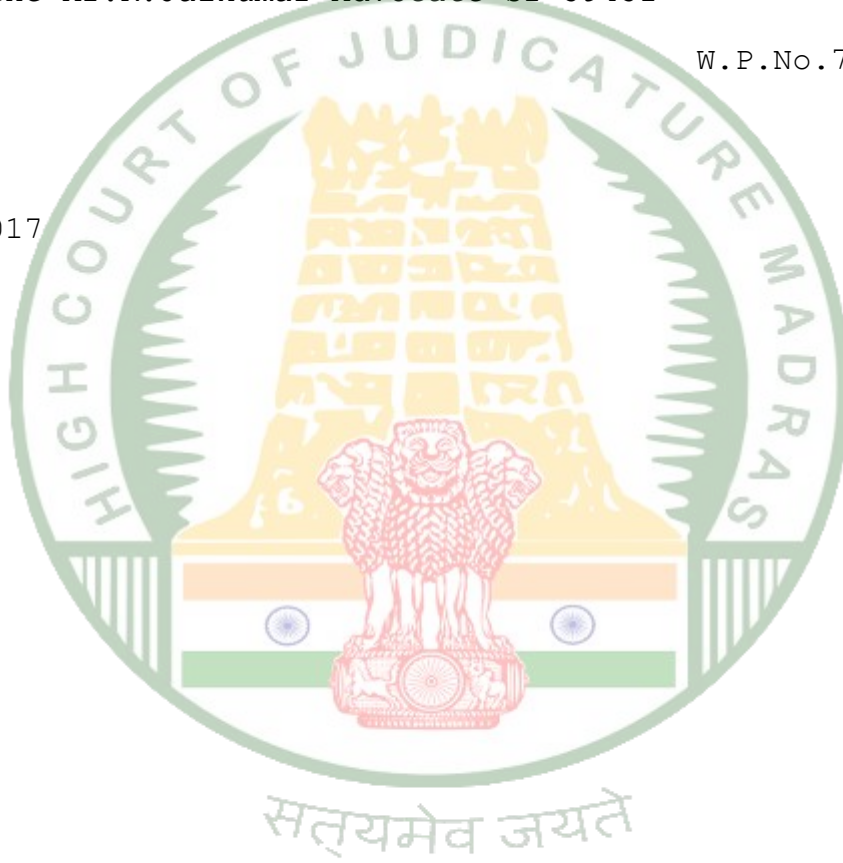
2.The Commissioner,
Kundrathur Panchayat Union,
Padappai, Kancheepuram District.

+1 cc to the Government Pleader sr 59950

+1 cc to the Mr.R.Jaikumar Advocate sr 59451

W.P.No.7308 of 2014

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