

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2017

CORAM:

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
and
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.887 of 2017
and
C.M.P.Nos.12510 and 16140 of 2017

Padmavathy Appellant/Writ Petitioner

... Vs ...

1. Secretary to Government,
The Medical and Health Department,
Secretariat, Chennai - 600 009.
 2. The Director,
Tamil Nadu Medical and Health Department,
DMS Complex,
Anna Salai,
Chennai.
 3. The Deputy Director,
Tamil Nadu Medical and Health Department,
Thiruvannamalai District.
 4. The Block Medical Officer,
Government Primary Health Center,
Karapattu - 606 705
Thiruvannamalai District.
- ... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent,
against the order dated 06.03.2017 passed by this Court in
W.P.No.5485 of 2017.

Prayer in W.P.No.5485 of 2017:-

Petition filed under Article 226 of the Constitution of
India to issue a Writ of Certiorarified Mandamus, calling for
the records relating to the proceedings dated 22.11.2016 made
in Na.Ka. No.248/a1/DHC/2016 passed by the 4th respondent and
quash the same and consequently direct the respondents to
appoint the petitioner in a suitable post on the compassionate
grounds in the respondents department

For Appellant : Mr.G.Ethirajulu
For Respondents : Mr.P.S.Sivashanmugha Sundaram,
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by
RMT. TEEKAA RAMAN,J.,)

Writ Appeal is directed against the order dated 06.03.2017 dismissing the writ petition filed by the appellant in W.P.No.5485 of 2017, which was filed to quash the proceedings in Na.Ka.No.248/A1/DHC/2016, dated 22.11.2016 of the fourth respondent and to direct the fourth respondent to reconsider afresh the application of the writ petitioner for appointment on compassionate grounds.

2. The brief facts of the case is that the writ petitioner/appellant herein has filed an application before the respondents seeking compassionate appointment, since her mother, who worked as hospital worker at Primary Health Center, Periyakulam, Chengam Taluk, Thiruvannamalai District, died while in service. However, the said application was rejected by the fourth respondent on the ground that she has already married. The matter was taken up before the learned Single Judge and the learned Single Judge, on consideration of the materials placed before the Court, had dismissed the said writ petition stating that at the time of the death of the deceased Government servant Malliga, the appellant was aged about 35 years, she got married and settled with her husband separately and hence, she is not entitled for appointment on compassionate grounds. Challenging the said order, the writ petitioner/appellant herein has preferred this writ appeal on the ground that merely because she is married, her right to be considered for appointment on compassionate grounds cannot be taken away by the respondents.

3. Heard Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader on this point.

4. Learned counsel appearing for the appellant has filed list of documents relating to Family Card of the appellant's family, Voter ID card of the appellant's mother and the Birth Certificate of the appellant's daughter indicating that till the date of the death of the appellant's mother, the appellant was residing in her mother's house. Learned counsel appearing for the appellant has also submitted that though the appellant was married, her husband was said to be only a coolie worker and as a family member of the Government servant, the appellant is in indigent circumstances besides, her financial status also very weak and hence, the appellant may be given an appointment on compassionate grounds.

5. Considering the facts and circumstances of the case, merely because the appellant is married woman, that fact cannot by itself will become disqualification for being considered for compassionate appointment. Hence, the impugned order passed by the learned Single Judge is liable to be set aside and accordingly, the same is set aside. The fourth respondent is directed to consider the request of the appellant for appointment on compassionate grounds and after affording an opportunity to the appellant, pass appropriate order, within three months from the date of appearance of the appellant/writ petitioner.

6. With the above direction, the Writ Appeal is allowed. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS IX)

//True Copy//

Sub Assistant Registrar

Jr1

To

1. Secretary to Government,
The Medical and Health Department,
Secretariat, Chennai - 600 009.
2. The Director,
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3. The Deputy Director,
Tamil Nadu Medical and Health Department,
Thiruvannamalai District.
4. The Block Medical Officer,
Government Primary Health Center,
Karapattu - 606 705
Thiruvannamalai District.

+1cc to Mr.G.Ethirajulu, Advocate in sr.no.78237
+1cc to Government Pleader, in sr.no.78300

W.A.No.887 of 2017

AD(CO)
CS/06/12/17