

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.17476 of 2014

A.Latha

.. Petitioner

Vs.

1.The District Collector,
Collectorate, Nagapattinam District.

2.The District Elementary Educational
Officer, DEO Office,
Nagapattinam District.

3.The Aathur Aided Elementary School,
Karnaveli, Keezhvelur Taluk,
Nagapattinam District.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus to direct the respondents to consider the petitioner's family and to provide suitable employment to the petitioner on the compassionate ground.

For Petitioner .. Mr.P.Vijendran

For Respondents .. Mr.R.A.S.Senthilvel,

Addl. Govt. Pleader for R1 & R2

R3 - No appearance

ORDER

The petitioner has approached this Court seeking the following relief:

to direct the respondents to consider the petitioner's family and to provide suitable employment to the petitioner on the compassionate ground.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for respondents 1 and 2.

3.According to the petitioner, her husband, who was working as Secondary Grade teacher in the third respondent school, expired during the course of his employment on 04.01.2012, leaving behind the petitioner and two school going children. The

deceased employee has rendered more than eleven years of service as teacher. The petitioner, being his wife and her deceased husband was the only source of livelihood, after the death of the deceased employee, the family was suddenly reduced to penury and was placed in indigent circumstances, unable to make both ends meet. The pension, which the petitioner has been paid, was very meagre and she was unable to support her family, particularly with two school going children. It is also the case of the petitioner that the deceased employee has borrowed housing loan from the nationalised bank and in view of the sudden death, the equated monthly instalments payable towards the housing loan could not be paid and she was also confronted with the action by the nationalised bank under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. In the said circumstances, the pension which is receivable cannot be fully utilised for the welfare of the family and major portion of it will have to be spent towards repayment of the housing loan obtained by the deceased employee.

4. In the above circumstances, the petitioner has submitted a representation for grant of appointment on compassionate grounds on the basis of her qualification on 01.10.2012 to the first respondent. In response to the representation, a communication was sent by the first respondent stating that she may prefer an application seeking appointment on compassionate grounds to a competent authority vide communication dated 13.12.2013. Thereafter, according to the learned counsel for the petitioner, proper application is submitted to the competent authority for consideration. However, till date, no action has been taken and therefore, she is before this Court, seeking the relief as stated supra.

5. Upon notice, Mr. R.A.S. Senthilvel, learned Additional Government Pleader entered appearance on behalf of respondents 1 and 2 and filed counter statement. In the counter, nothing has been disclosed as to why the application for appointment on compassionate grounds could not be considered favourably. The counter merely states that appointment on compassionate grounds is not an ancestral property, which can be carried over by the legal heirs of the deceased Government servants. This Court is not expecting any advice from the second respondent as to how the appointment on compassionate grounds ought to be given. From the very nature of averments contained in the affidavit filed in support of the writ petition, it unequivocally demonstrates that there requires a compassion to be extended to the petitioner for consideration of her appointment.

6. In the said circumstances, the inaction on the part of the respondents in not considering her legitimate claim for appointment on compassionate grounds cannot be countenanced both

in law and on fact. The learned Additional Government Pleader would also contend that they have not received the application in proper format and the petitioner's request could not be processed any further. Even assuming the same is true, the petitioner is directed to submit another application within a period of one week from today to the second respondent and the second respondent is directed to consider the case of the petitioner sympathetically and favourably for grant of appointment on compassionate grounds by taking into consideration the totality of circumstances in which the family of the deceased employee is placed. The decision for grant of appointment on compassionate grounds shall be taken on the application of the petitioner within a period of four weeks from the date of receipt of the fresh application from the petitioner. This Court hopes that the appointment on compassionate grounds is extended by the second respondent to the petitioner without directing the petitioner to resort to any further litigation.

7. With the above directions, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Collectorate, Nagapattinam District.

2. The District Elementary Educational
Officer, DEO Office,
Nagapattinam District.

3. The Aathur Aided Elementary School,
Karnaveli, Keezhvelur Taluk,
Nagapattinam District.

+lcc to Mr.P.Vijendran, Advocate SR.No.49318
+lcc to Government Pleader SR.No.49361

W.P.No.17476 of 2014

SJ(CO)
GN(04/08/2017)