

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.12260 of 2013

S.Thirumalar Selvi

.. Petitioner

Vs.

1.Director of Panchayats,
Kuralagam, Chennai - 1.

2.Asst. Director of Panchayats,
Salem Division, Room No.201,
District Collectorate, Salem - 1.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the impugned orders bearing Na.Ka.No.3220/2012/B dated 22.11.2012 and Na.Ka.No.3220/2012/B dated 24.01.2013 which are filed as Exhibits A and B issued by the second respondent respectively and to quash the same and consequently direct the respondents to give the petitioner compassionate appointment in any appropriate post.

For Petitioner .. Ms.L.Parvin Banu

For Respondents .. Mr.T.M.Pappiah,
Spl. Govt. Pleader

ORDER

The petitioner has approached this Court seeking the following prayer:

"to issue of a writ of certiorarified mandamus to call for the records relating to the impugned orders bearing Na.Ka.No.3220/2012/B dated 22.11.2012 and Na.Ka.No.3220/2012/B dated 24.01.2013 which are filed as Exhibits A and B issued by the second respondent respectively and to quash the same and consequently direct the respondents to give the petitioner compassionate appointment in any appropriate post."

2.The case of the petitioner is that her father was employed as Junior Assistant in Pandamangalam Town Panchayat. While in service, he died on 30.11.1991 after putting in 27 years of service. The petitioner's mother seemed to have applied for compassionate appointment for herself in 1993 itself. Subsequently, she sent number of representations requesting for compassionate appointment to the petitioner. In the meanwhile, the petitioner had attained the age of majority on 04.07.2002. However, the representation seeking compassionate appointment for the petitioner was rejected in view of the ban imposed on fresh recruitment vide G.O.Ms.No.212 Personnel and Administrative Reforms Department dated 29.11.2001. However, the writ petitioner was informed that her name has been registered in the waiting list for consideration at the appropriate time.

3.Thereafter, the petitioner's application for compassionate appointment was rejected by the respondents on 30.07.2007 on the ground that the petitioner was married and more than three years have gone since the death of her father. The said rejection was the subject matter of challenge in W.P.No.892 of 2008 and this Court allowed the writ petition holding that the marriage was not a bar, particularly in view of the factual position that originally the name of the petitioner was waitlisted for consideration for compassionate appointment. Against the order passed by the learned single Judge of this Court, a writ appeal was filed and the Division Bench allowed the writ appeal filed by the respondents on the ground that there was a delay of 11 years.

4.While matter stood thus, the Government has passed G.O.Ms.No.96 Labour and Employment (Q1) Department dated 18.06.2012 stating that the applications of those who had applied prior to 29.11.2001 would be considered for compassionate appointment. As far as the petitioner's case is concerned, her mother had applied for compassionate appointment as early as 23.06.2000. Therefore, the case of the petitioner is that she comes within the cut off date prescribed by the above said Government Order. However, despite the above position, the petitioner's application was not considered solely on the ground that her application was given only on 29.02.2002, which was beyond the cut off date i.e. 29.11.2001.

5.Upon notice, Mr.T.M.Pappiah, learned Special Government Pleader entered appearance on behalf of the respondents and made his submissions.

6.When the matter is taken up for hearing, the learned counsel appearing for the petitioner would circulate the Government Order in G.O.Ms.No.78 Labour and Employment (Q1) Department dated 21.04.2017 in which the Government has stated that the compassionate appointments of similar claim would be

considered in terms of para 9.2 of the order. Therefore, the learned counsel would request the Court to issue a direction to the respondents to consider the claim of the petitioner in view of the subsequent development by issuance of the above Government Order.

7.Considering the limited relief sought for by the petitioner and such direction, if issued, cannot be resisted with justification on the part of the respondents, this Court is of the view that the writ petition is liable to be allowed with a direction to the respondents as requested by the petitioner.

8.In view of the above discussion and narrative, the impugned orders of rejection passed by the respondents are set aside and there shall be a direction to the respondents to consider the claim of the petitioner in terms of G.O.Ms.No.78 Labour and Employment (Q1) Department dated 21.04.2017 within a period of two months from the date of receipt of a copy of this order.

9.The writ petition is allowed on the above terms. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1. The Director of Panchayats,
Kuralagam, Chennai - 1.
2. The Asst. Director of Panchayats,
Salem Division, Room No.201,
District Collectorate, Salem - 1.

+ 1 cc to M/s.Row & Reddy, Advocate,SR.58377
+ 1 cc to The Govt.Pleader, SR.58540

W.P.No.12260 of 2013

EV(CO)
NR 14/09/2017