

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.42273 of 2016 &
W.M.P.No.36177 of 2016

M.Revathi

... Petitioner

Vs.

1. The Director
Rural Development Department
Panagal Maaligai, Saidapet
Chennai - 600 015.

2. The District Collector,
Thiruvannamalai District
Thiruvannamalai.

3. The Block Development Officer
West Arani, Arani
Thiruvannamalai District.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in respect of the order passed by the District Collector dated 18.4.2016 in Na.Ka.No.1122/2016/Pa.Aa3 and quash the same consequently direct the respondents to appoint the petitioner under compassionate appointment.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.K.Dhananjayan
Special Government Pleader for R1 to R2

Mr.N.Inbanathan for R3

O R D E R

Order of rejection in Na.Ka.No.1122/2016/Pa.Aa3 dated 18.04.2016 rejecting the claim for compassionate appointment of the writ petitioner is under challenge in this writ petition.

2. The sister of the writ petitioner late.M.Hemalatha, died on 15.05.2014, while she was in service. The deceased employee

was working as Panchayat Secretary and she was unmarried at the time of death. Thus, the writ petitioner who is none other than the sister of the deceased employee, filed an application, seeking compassionate appointment on 02.11.2015.

3. The respondents rejected the application on the ground that the death of the deceased employee was on 15.05.2014 and the scheme of compassionate appointment was implemented in respect of the Panchayat Secretary vide G.O.(Ms) No.102, Rural Development and Panchayat Raj (E5) Department dated 13.07.2015. Since the death occurred prior to the issuance of the Government Order, appointment under compassionate ground cannot be provided.

4. The learned counsel appearing for the writ petitioner urged this Court that G.O.(Ms) No.102, Rural Development and Panchayat Raj (E5) Department, was issued on 13.07.2015 and the effect was given from the date of issuance of the order. Application seeking compassionate appointment was filed by the writ petitioner on 02.11.2015 after the scheme was implemented for Panchayat Secretary. This, being the fact, the case of the writ petitioner ought to have been considered by virtue of said Government Order, implementing compassionate appointment for Panchayat Secretary. However, the rejection order was also issued on 18.04.2016 on the ground that the scheme is not applicable.

5. The learned Special Government Pleader appearing on behalf of the respondents 1 to 2 stated that the death falls before the date of issuance of the said Government Order. Hence the benefit of compassionate appointment cannot be extended.

6. Heard the respective learned counsels. This Court is of the view that the deceased employee expired on 15.05.2014 and even before submission of the application by the writ petitioner, the G.O.(Ms) No.102, Rural Development and Panchayat Raj (E5) Department dated 13.07.2015, was issued, extending the benefit of compassionate appointment to the Panchayat Secretary and the application was filed by the writ petitioner on 02.11.2015 after implementing the scheme. The respondents cannot say that the application need not be considered based on the Government Order issued in G.O. (Ms) No.102 dated 13.07.2015. Thus the writ petitioner has got over the right to avail the benefit of appointment on compassionate ground, which is extended to the post of Panchayat Secretary by the said Government Order. Eligibility criteria in respect of the date of death has not been stipulated in the Government Order. In view of this fact, the order impugned is liable to be scrapped.

7. Accordingly, the order impugned in this writ petition passed by the second respondent in proceeding

Na.Ka.No.1122/2016/Pa.Aa3 dated 18.04.2016 is quashed and the respondents are directed to re-consider the case of the writ petitioner for compassionate appointment on merits and in accordance with law and pass orders within a period of 12 weeks from the date of receipt of a copy of this order. Writ petition stands allowed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Director
Rural Development Department
Panagal Maaligai, Saidapet
Chennai - 600 015.
2. The District Collector,
Thiruvannamalai District
Thiruvannamalai.
3. The Block Development Officer
West Arani, Arani
Thiruvannamalai District.

+1cc to Mr.D.Rajagopal, Advocate SR.No.62985
+1cc to Government Pleader SR.No.63560

सत्यमेव जयते

W.P.No.42273 of 2016 &
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RSI (CO)
GN(28/09/2017)

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