



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and**

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD)No.1007 of 2017
and
C.M.P.(MD).No.6875 of 2017

1.The Inspector General of Police,
Tecnical Services,
Mylapore,
Chennai-4.

2.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

: Appellants / Respondents

Vs.

J.Selvajanaki : Respondent / Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act to set aside the order dated 24.03.2016 in W.P.(MD).No.5433 of 2016, by allowing this writ appeal.

Prayer in WP(MD). 5433/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent herein in his proceedings in Na.Ka.No. 2/8355/2015, dated 27.11.2015 and quash the same and consequently direct the respondents herein to provide an appointment to the petitioner on compassionate ground.

For Appellants : Mr.T.S.Mohamad Mohideen
Additional Government Pleader

For Respondent : Mr.K.Hemakarthiskeyan



JUDGMENT

[Judgment of the Court was made by G.R.SWAMINATHAN,J.]

This Writ Appeal is directed against the order dated 24.03.2016 made in W.P.(MD).No.5433 of 2016, filed by the respondent herein.

2.According to the respondent, her father was working as Sub Inspector of Police (SI-1095) and he passed away on 31.08.2014, while in service. He died leaving behind the writ petitioner, her sister and the mother of the writ petitioner as his legal heirs.

3.According to the writ petitioner following her father's demise, She is only taking care of her mother. Therefore, she applied for being appointed on compassionate grounds. But, the request of the writ petitioner was rejected by order dated 27.11.2015, on the ground that a married daughter is not eligible to get appointment on compassionate grounds. Hence, she filed W.P.(MD).No.5433 of 2016.

4.The learned Judge following earlier precedents held that the marriage of the daughter cannot act as a disqualification for getting compassionate appointment. Since the ground of rejection was found to be unsustainable, the order of rejection was set aside and the writ petition was allowed and the Inspector General of Police, Technical Services, Mylapore, Chennai-4 was directed to provide appointment to the writ petitioner on compassionate ground. Aggrieved by the same, the present appeal has been filed.

5.We agree with the Learned Judge that the marriage of a daughter cannot act render her disqualified to seek compassionate appointment. It would be a clear violation of Article 14 of the Constitution. But, the issue cannot be resolved only on the said footing. The object of providing compassionate appointment is to relieve the family from economic distress following the death of the sole breadwinner.

6.In the present case, the father of the writ petitioner passed away in 2014. But some fifteen years ago, the writ petitioner got married and she is also having two children. The writ petitioner had not only moved out of the family, but also was on her own with her husband and her two children. She cannot be construed as a dependant of her father, when he passed away. Compassionate appointment is given only on fulfilment of all the relevant criteria. Merely because, the sole ground of rejection was found to be unsustainable, a direction cannot be issued to provide compassionate appointment to the applicant. It is obvious that a person, who was not dependant on the deceased cannot make a claim for compassionate appointment.



7.As rightly contended by the learned Special Government Pleader for the appellant, the learned Judge at best could have remitted the matter to the authority for considering the claim of the writ petitioner afresh with reference to other criteria for compassionate appointment. The learned Judge was clearly in error in directing the appellants to appoint the writ petitioner on compassionate grounds.

8.In the present case, the writ petitioner had not made available any material to show that she is in indigent circumstances. Looked at from any angle, the order of the Learned Judge is unsustainable.

9.We therefore set aside the order dated 24.03.2016 made in W.P.(MD).No.5433 of 2016. The Writ Appeal stands allowed. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To:

1.The Inspector General of Police,
Technical Services,
Mylapore,
Chennai-4.

2.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

+One cc to The Special Government Pleader, SR.No.68975
+One cc to Mr.K.Hemakarthiskeyan, Advocate, SR.No.68259

Tsg/Ns

RL/5C/3P/MR/KKR/SAR1/29/8/2017

Judgment in

W.A.[MD]No.1007 of 2017