



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P (MD) No.429 of 2017

and

W.M.P (MD) No.340 of 2017

T.Karthika Devi

... Petitioner

vs.

1) The General Manager
Aavin,
Sathamangalam,
Madurai - 625 020.

2) The Secretary,
Dept. of Milk and Dairy Development,
Secretariat,
St. George Fort, Chennai.

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceeding of the 1st respondent through Na.Ga.No.6494/Pa.Ku.2/2016, dated 21.11.2016 and quash the same partly in respect of the petitioner not applying for compassionate appointment within three years, consequently direct the respondents to appoint the petitioner on compassionate ground based on her qualification.

For Petitioner

: Mr.R.Santhanam

For R1

: Mr.M.Murugan

Government Advocate

For R2

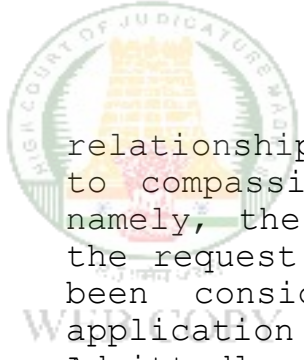
: Mr. AK.Baskarapandian

Special Government Pleader

ORDER

The prayer in this writ petition is to quash the proceedings of the 1st respondent in Na.Ga.No.6494/Pa.Ku.2/2016, dated 21.11.2016 in respect of the petitioner with a consequential direction to the respondents to appoint the petitioner on compassionate ground, based on her qualification.

2. According to the petitioner, she is the daughter of the deceased Thangamani, who died while in service on 25.09.2009 in a road accident. According to her, there was a customary divorce executed on 30.12.1991 between the petitioner's biological mother and the deceased father Thangamani and that the biological mother married another person and settled with him. The said Thangamani said to have a live-in relationship with another lady. According to the petitioner, her father Thangamani was having live-in relationship with another lady and there was no child born to the said



relationship. According to her, she is the only legal heir entitled to compassionate appointment and since there is a rival claimant namely, the lady who was living with the father of the petitioner, the request of the petitioner for compassionate appointment, has not been considered. The petitioner submitted that she made an application for compassionate appointment as early as on 10.05.2010. Admittedly, there is no proof to the effect of having despatched the said application.

3. At this juncture, it is relevant to point out paragraph No.20 of a decision reported in (2011) 4 SCC 209, *Bhawani Prasad Sonkar vs. Union of India and others*, wherein the Hon'ble Apex Court has held as follows:-

"20. Thus while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of rules of regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment dehors the scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.

(iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. Parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts."

4. Even assuming for the sake of argument that the petitioner is the only legal heir, this Court is not inclined to grant the relief, more particularly, when there is no proof of having demanded compassionate appointment within the period of three years from the date of death of her father. On that ground alone, the writ petition has got to be dismissed. That apart, there are civil disputes pending with regard to succession in the family on account of the death of the deceased. While rejecting the request for compassionate appointment by the impugned order dated 21.11.2016, the 1st respondent has stated that if proper legal heirship certificate is produced, the



disbursement of the terminal benefits of Thangamani, would be considered in accordance with law.

Accordingly, this Writ Petition is dismissed. No costs. Consequently, W.M.P(MD)No.340 of 2017 is closed.

Sd

ASST REGISTRAR (RTI)

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SUB ASST REGISTRAR

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To

1)The General Manager
Aavin, Sathamangalam,
Madurai - 625 020.

2) The Secretary,
Dept. of Milk and Diary Development,
Secretariat, St. George Fort, Chennai.

1CC TO MR. R. SANTHANAM, ADVOCATE 2185
1CC TO THE SPL GOVT PLEADER SR: 2295

KK JM 3 2 17

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and
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