

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.02.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.3039 of 2018

P.Srividya

...Petitioner

Versus

1. The State of Tamil Nadu
rep. by its Secretary to Government,
Department of Employment and Training,
Secretariat, Fort St. George,
Chennai-9.
 2. The Director,
Directorate of Employment and Training,
Guindy, Chennai-32.
 3. The Assistant Director,
District Employment Office,
Santhome High Road,
Chennai-600 004.
- ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent to consider the representation of the petitioner dated 25.11.2017, regarding appointment under Compassionate Ground as per G.O.Ms.No.78, dated 21.4.2017.

For Petitioner : Mr.Sankar Ramasamy

For Respondents : Mr.P.Raja, Govt. Advocate

O R D E R

The Present Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 2nd respondent to consider the representation of the petitioner dated 25.11.2017, regarding appointment under Compassionate Ground as per G.O.Ms.No.78, Labour and Employment Exchange (Q1) Department, dated 21.4.2017.

2. Learned Counsel for the petitioner submitted that the petitioner's mother late Mrs.Usharani while serving as Junior Assistant in the 3rd respondent office died on 15.12.2008 leaving

behind the petitioner and her brother late Balaji. As a matter of right, the petitioner is entitled to seek appointment on compassionate ground. Therefore, she has made an application dated 30.11.2011 with all necessary certificates and other details to all the respondents seeking employment in any Government Department under compassionate ground. The 2nd respondent, by letter dated 26.12.2011, directed her to submit an application for compassionate appointment and for receiving other terminal benefits of her deceased mother and accordingly, the petitioner made an application dated 4.2.2012 claiming DCRG and terminal benefits of her mother and the same was also acknowledged by the 1st respondent. The learned Counsel further submitted that while so, after disbursing the terminal benefits as a legal heir, they cannot refuse to give employment on the ground that the petitioner is a married woman.

3. This Court is not able to find any merit in the submission made by the learned Counsel for the petitioner. The reason is that the petitioner's mother late Mrs.S.Usharani while serving as Junior Assistant in the 3rd respondent office died on 15.12.2008 leaving the petitioner and her brother as legal heirs, it must be taken note that even six years before the date of the death of her mother, the petitioner got married on 15.5.2002 and her husband is also gainfully employed in a Private Concern. Therefore, I find no ground to entertain this Writ Petition seeking compassionate appointment. This apart, the petitioner has not produced any Income Certificate either from her family or at least the Income Certificate of her husband which itself shows that the petitioner is not inclined to disclose the income of her family.

4. At this stage, the learned Counsel for the petitioner submitted that as per G.O.Ms.No.78, Labour and Employment Exchange (Q1) Department dated 21.4.2017, the Government has come forward to provide compassionate appointment even to a married woman. But this Court is not bound by the said Government Order as it is bound by the judgment of the Honourable Apex Court reported in (2008) 15 SCC 560 in Steel Authority of India Limited vs. Madhusudan Das and Others, wherein the Hon'ble Supreme Court, in paragraph 15 of its judgment, held as under:-

"This Court in a large number of decisions has held that the appointment on compassionate ground cannot be claimed as a matter of right. It must be provided for in the rules. The criteria laid down therefor, viz., that the death of the sole bread earner of the family, must be established. It is meant to provide for a minimum relief. When such contentions are raised, the constitutional philosophy of equality behind making such a scheme be taken into

consideration. Articles 14 and 16 of the Constitution of India mandate that all eligible candidates should be considered for appointment in the posts which have fallen vacant. Appointment on compassionate ground offered to a dependant of a deceased employee is an exception to the said rule. It is a concession, not a right. [See General Manager, State Bank of India and Others vs. Anju Jain (2008) 8 SCC 475, para 33]"

5. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
Department of Employment and Training,
Secretariat, Fort St. George,
Chennai-9.
2. The Director,
Directorate of Employment and Training,
Guindy, Chennai-32.
3. The Assistant Director,
District Employment Office,
Santhome High Road,
Chennai-600 004.

+lcc to Mr.Sankar Ramasamy, Advocate, S.R.No.10725

+lcc to the Government Pleader, S.R.No.11153

CNR(CO)
RRK(08/03/2018)

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