

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-04-2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Contempt Petition No.178 of 2018

in

W.P.No.42273 of 2016

M.Revathi

... Petitioner

Vs.

Mr.K.S.Kandasami

... Respondent

This contempt petition is filed under Section 11 of Contempt of Courts Act, against the respondent and punish the respondent for having disobeyed the order passed by this Court in WP No.42273 of 2016 dated 31.8.2017.

For Petitioner : Mr.D.Rajagopal

For Respondent : Mr.M.Elumalai,

Government Advocate.

O R D E R

The present contempt petition is filed in respect of the order passed by this Court on 31.8.2017 in WP No.42233 of 2016.

2. The relief sought for in the main writ petition is to consider the case of the writ petitioner for compassionate appointment and this Court passed an order as

"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."

3. This Court has directed the respondents to reconsider the case of the writ petitioner based on the Government Order issued in G.O.Ms.No.102, Rural Development and Panchayat Raj (E5) Department, dated 13.7.2015. The respondents had reconsidered the case of the writ petitioner in the light of the order passed by this Court in WP No.42273 of 2016. Accordingly, the District Collector, Thiruvannamalai passed an order in proceedings No.Na.K. 17137/2016/gm3 dated 21.11.2017. The District Collector had reconsidered the case of the writ petitioner based on the facts raised and in the light of the order passed by the Government in G.O.Ms.No.102, Rural Development and Panchayat Raj (E5) Department, dated 13.7.2015. It is clarified by the District Collector in the said order dated 21.11.2017 that the benefit of compassionate appointment can be extended in respect of Panchayat Secretaries only after 13.7.2015. In other words, in the cases where the deceased employee died after 13.7.2015 alone is entitled for compassionate appointment,

so as to provide appointment to the legal heirs of the deceased employees.

4. In the present petition, the sister of the petitioner passed away on 15.5.2014 i.e., before issuance of the said Government Order. Since the deceased employee died prior to the issuance of the said Government Order, the writ petitioner is not eligible for compassionate appointment by availing the benefit of the scheme extended in G.O.Ms.No.102, dated 13.7.2015. This Court is of an opinion that compassionate appointment, being a concession, cannot be extended or enlarged and the scope of the scheme to followed scrupulously by the competent authorities.

5. If at all, the scheme is extended with retrospective effect, there may be numerous cases, which are all to be considered by the respondents. In the event of extending the scope with retrospective effect, it is certain that many such similarly placed persons will claim appointment on compassionate grounds and it may not be possible to grant appointment to all such candidates in accordance with the terms and conditions of the scheme. The purpose and the object of the scheme itself is to mitigate the indigent circumstances arising on account of the sudden death of the deceased employee.

6. In the present case, when the scheme was not extended at the time of death of the deceased employee, who was employed as a Panchayat Secretary, then the same cannot be claimed based on the policy which was effected from 13.7.2015 in G.O.Ms.No.102.

7. In view of these facts, this Court is of an opinion that the respondents have not committed any contempt and as per the directions of this Court in WP No.42273 of 2016, the case of the writ petitioner was reconsidered and a reply was issued in proceedings dated 21.11.2017 and the same was communicated to the writ petitioner.

8. Thus, the writ petitioner has not committed any contempt of the order of this Court and accordingly, no further adjudication is required and the contempt petition stands closed.

सत्यमेव जयते

SD/

ASSISTANT REGISTRAR (Commr.Cases)

Svn

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER(O.S.)

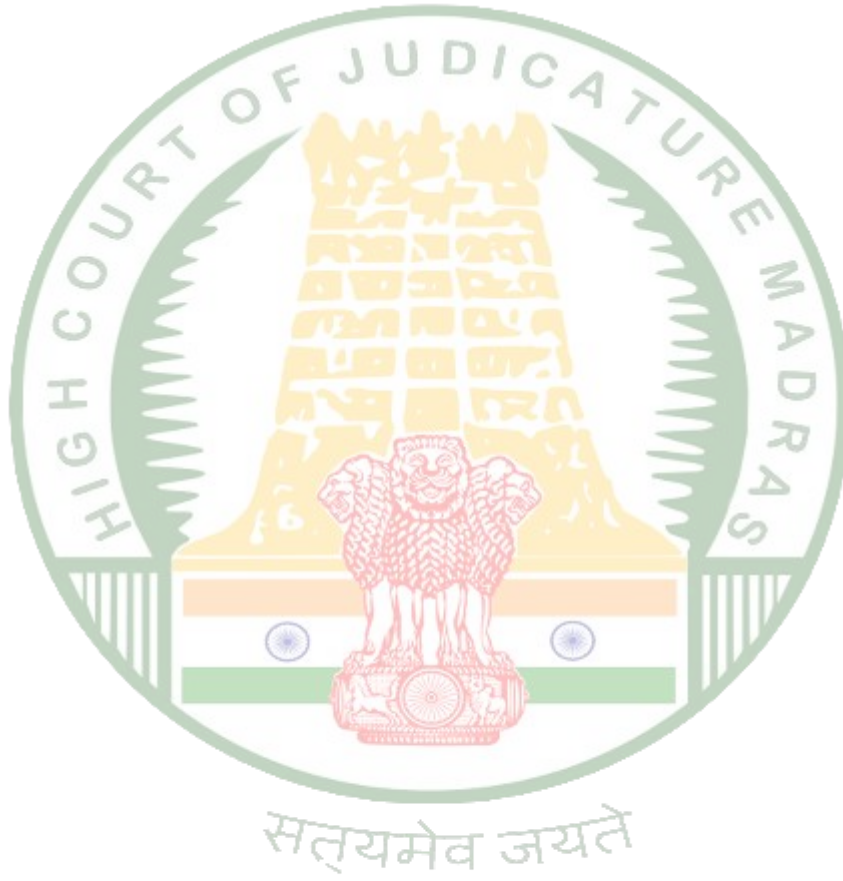
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One CC to M/s.D.RajaGopal, Advocate, SR.5866.



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