

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.06.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.14727 of 2008

A.Rajalakshmi

... Petitioner

Vs

1. The Director of Elementary Education
D.P.I.Campus, College Road,
Chennai - 600 006.
 2. The District Educational Officer,
Udayarpalayam Taluk,
Perambalur District.
 3. The Assistant Elementary Education Officer,
Senthurai,
Perambalur District.
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus to call for the records relating to the proceedings passed by the second respondent in Na.Ka.No.9403/A1/2006, dated 18.08.2007, quash the same and consequently direct the respondent to appoint the petitioner on compassionate grounds.

For Petitioner : Mr.V.Kasinatha Bharathi

For Respondents : Mr.K.Karthikeyan
Government Advocate (Edn)

O R D E R

The petitioner herein has completed Higher Secondary Education in the year 1993 to 1995 and she has also completed the Diploma in Department of Technical Education with Junior Grade and Senior Grade in the year 2000 and she has also completed B.A., degree. The petitioner would contend that she belongs to backward class community and her father worked as an Office Assistant in Sirukadambur Panchayat Union Elementary School in Senthurai Union who was worked from 12.04.1958 to 24.02.1995, died suddenly on 24.02.1995 leaving the petitioner, her mother and other two sisters as legal heirs. Due to sudden

death of her father, her family has put in hardship without any source of income. Prior to the death of father, two elder sisters got married and hence she prayed for employment on compassionate grounds to the respondent on 14.05.1997 which is well within a period of 3 years contemplated under the rules.

2.The petitioner would also contend that the sisters and others have given no objection for providing job to the petitioner and the Thasildar also issued a certificate that the petitioner's family is in poor situation, without any other sources of income and no landed property or house in the favour of petitioner or mother by proceedings dated 03.08.1995 in Mu.Mu.No.6912/1995.

3.The petitioner would further contend that in the meantime she got married to one Babu in the nearby village and due to misunderstanding, the petitioner has left her matrimonial home and resides with her mother and there is no cohabitation between the said Babu and the petitioner herein.

4.The petitioner is living in a very critical stage without any support. The second respondent has rejected the petitioner's request on 18.08.2007 stating the following three reasons:-

- i) Under G.O.No.560 Labour and Employment Department, dated 03.08.1997, there is some possibility to believe that my family is not in poor stage;
- ii) A valid reason has not assigned to that effect that when totally there are two elder sisters without seeking appointment for them, why the younger sister seeking for appointment; Further, the mother of the petitioner worked as a cook in Health Department; the above said facts not mentioned in the application; and
- iii) The petitioner Rajalakshmi got married on 05.02.2003, but which is not mentioned in the application;

5.For which the petitioner had replied that the Thasildar had also issued another certificate that the income of the petitioner's family is very meagre, since her mother is working as a cook in health department on consolidated pay. The above said certificate, issued by the Thasildar dated 12.07.1996 was also produced before the respondents but the same was not considered by the respondents.

6.The petitioner would also contend that in G.O.Ms.No.155, Labour and Employment Department dated 16.07.1993, guidelines for appointment on compassionate ground is clearly stated. The said G.O., also provides appointment of one member, if another member was already employed in the family of the deceased. The said G.O., clearly stated about the eligibility for appointment of the married daughter who already deserted by her husband and living with the family of the deceased Government servant and widowed or divorced daughter living with the family. The learned counsel for the petitioner would also contend that the meagre income of the mother is not sufficient to lead day to day life.

7.The learned counsel for the petitioner would further contend that the petitioner filed writ petition seeking a relief of mandamus for appointment in W.P.No.37050 of 2007 which was dismissed by this Court on 14.12.2007, for the reason that she has not challenged the proceedings in Na.Ka.No.9403/A1/2006, dated 18.08.2007 passed by the second respondent. The learned counsel for the petitioner would also contend that the petitioner has replied to the second respondent on 12.11.2007 after receipt of the rejection order, but no reply has been sent by the respondent also not provided any job even after the ban has been lifted by the Government. Challenging the same, the petitioner has filed this writ petition for a writ of mandamus to call for the records relating to the proceedings passed by the second respondent in Na.Ka.No.9403/A1/2006 dated 18.08.2007 and to quash the same and further direct the respondent to appoint her on compassionate grounds.

8.Heard the learned counsel for the petitioner and learned counsel for the respondents and perused the materials available on record.

9.There is no evidence to show whether the petitioner's mother is still working in the department or whether her employment was regularised. When there is no evidence available regarding the financial status of the petitioner, the respondents ought to have considered the case of the petitioner and the reason for rejection is not acceptable by this Court, even when married daughters are eligible to get compassionate appointment, the order of the second respondent is liable to be set aside. Hence, this Court directs the respondents to consider the case of the petitioner and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

AT

To

1. The Director of Elementary Education
D.P.I.Campus, College Road,
Chennai -600 006.
2. The District Educational Officer,
Udayarpalayam Taluk,
Perambalur District.
3. The Assistant Elementary Education Officer,
Senthurai,
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+1cc to the Government pleader Sr.37884

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W.P.No.14727 of 2008

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srg 12/12/2018

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