

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2018

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Writ Petition No.31090 of 2018

T.Kalpana

... Petitioner

..vs..

1. The Commissioner, Corporation of Chennai,
Rippon Building, Chennai 600 003
 2. The Educational Officer, Education Department,
Corporation of Chennai, Rippon Building,
Chennai 600 003
 3. The Assistant Educational officer,
Education Department, Corporation of Chennai,
Rippon Buildings, Chennai 600 003
- ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of impugned order in Ka.Thu.Na.Ka.No.P3/02130/2016 dated 30/10/2017 and subsequent consequential order in Ka.Thu.Na.Ka.No.P3/4414/2016 and 27/07/2018 passed by the 2nd Respondent herein and quash the same and consequently directing the Respondents to appoint the Petitioner on compassionate grounds with suitable post based on the petitioners educational qualification.

For Petitioner : Mr. M.Ravibharathi
For Respondents : Dr. C.Ravichandran, Sr. Counsel.

O R D E R

The petitioner, T.Kalpana, has filed this writ petition against the non-granting of appointment to her on compassionate grounds, despite the report dated 06.09.2016 of the Tahsildar, Mylapore Taluk.

2. The petitioner's mother, E.M.Saraswathi, was employed as a Teacher in Kinder Garden Section at Chennai Corporation Middle School, Rangarajapuram, Kodambakkam, Chennai. The petitioner's mother died on 11.11.2015 leaving behind the legal heirs, including the petitioner herein. The details of the legal heirs are also mentioned in the report of the Tahsildar by stating that her husband is one P.Tulasidaran, her daughter is T.Kalpana and the son is Purushothaman. The report also reveals that both Kalpana and Purushothaman are not married.

3. Dr. C.Ravichandran, learned senior counsel, takes notice for the respondents. With the consent of the learned counsel appearing for both sides, the writ petition is taken up for final disposal at the admission stage itself.

4. The report of the Tahsildar was very clear on three aspects. On the first aspect, the report states that in the family of the deceased nobody is employed either in the Central Government or in the State Government or in the Private Sector undertaking. The report is also very clear that there is no movable or immovable properties belonging to the family; the family is in penurious circumstances after the death of E.M.Saraswathi.

5. Pointing out the above aspects, the learned counsel appearing for the petitioner submitted that the non-granting of the appointment on compassionate ground to the petitioner is illegal and the authority should be directed to provide appointment to the petitioner on the compassionate grounds.

6. The learned senior counsel appearing for the respondents consistently pleaded that time must be given for filing counter and this request for filing counter was not accepted by this Court, since the report of the Tahsildar, dated 06.09.2016 was very clear on three aspects and therefore, this Court expressed the view that no counter affidavit is necessary.

7. The learned senior counsel appearing for the respondents vehemently opposed this writ petition by contending that the father of the deceased retired from service on 31.05.2016 only, therefore, on the date of application, the petitioner's father was in employment.

8. The learned counsel appearing for the petitioner submitted that subsequent to the death of the deceased, the petitioner got married, which fact is not disputed by the learned senior counsel appearing for the respondents.

9. It is also pointed out that the petitioner's father namely P.Thulasidaran who had been working as Salesman in a Ration shop run by Kancheepuram District Consumer Cooperative Wholesale Store, retired on 31.05.2016.

9.1. Therefore, the contention of the petitioner that there were no earning member in the family when she claimed appointment on compassionate grounds, by her representation dated 04.04.2018, is correct.

10. The learned senior counsel appearing for the

respondents justified the impugned order, dated 27.07.2018, on the ground that on the date of death of the deceased, her husband Thulasidaran, who is the father of the petitioner, had been employed as a Salesman and therefore, the rejection of the petitioner's claim is correct.

10.1. As already pointed out though the petitioner's father had been in employment as a Salesman, he had retired from service within six months from the date of death of the deceased; he was also aged 60 and that is how, the Tahsildar has submitted a report that on the date of consideration, nobody was in Government employment and therefore, the petitioner is eligible for compassionate appointment.

11. Already this court has considered the claim of married daughters also for compassionate appointment, subject to an undertaking from the married daughter that the income would also be spent for the benefit of members of the family of the deceased.

12. In view of the foregoing reasonings, the respondents are directed to give appointment to the petitioner, subject to her educational qualification, within a period of four weeks from the date of receipt of a copy of this order. This writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

srk

To

1. The Commissioner, Corporation of Chennai,
Rippon Building, Chennai 600 003
2. The Educational Officer, Education Department,
Corporation of Chennai, Rippon Building,
Chennai 600 003
3. The Assistant Educational officer,
Education Department, Corporation of Chennai,
Rippon Buildings, Chennai 600 003

+1cc to Mr.M.Ravibharathi, Advocate SR.No.80382

+1cc to Mr.C.Ravichandran, Advocate SR.No.80257

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VGI (CO)

GMV (10/12/2018)