



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2018

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.6566 of 2014

R.Latha

... Petitioner

Vs.

1. The Commissioner of Agriculture,
O/o The Commissioner of Agriculture,
Chepauk, Chennai-600 005.
2. The Joint Director,
Department of Agriculture,
Dindigul.

... Respondents

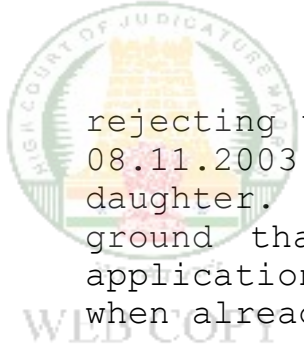
PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records passed by the first respondent herein in Letter No.ANiB6/31725/2007 dated 12.08.2008 and the consequential Letter No.Aa2/7706/12 dated 22.02.2014 passed by the second respondent herein and quash the same and consequently direct the respondents herein to consider the petitioner's daughter R.Saranya for appointment on compassionate grounds.

For Petitioner : Ms.M.Padmavathy
For Respondents : Mr.R.Sethuraman
Special Government Pleader

O R D E R

The petitioner has preferred this petition with the prayer to call for the records passed by the first respondent herein in Letter No.ANiB6/31725/2007 dated 12.08.2008 and the consequential Letter No.Aa2/7706/12 dated 22.02.2014 passed by the second respondent herein and quash the same and consequently to direct the respondents herein to consider the petitioner's daughter R.Saranya for appointment on compassionate ground.

2.The petitioner's husband viz., K.Rajendran was working as 'Office Assistant' in the office of the Assistant Director of Agriculture, Dindigul and died in harness on 06.01.2000. Since the daughter of the petitioner was studying 7th standard at the time of death of her father, the petitioner has sent an application 27.03.2001 for appointing her on compassionate ground. Since there was no reply from the respondents either accepting or



rejecting the said application, she made another representation on 08.11.2003 to provide appointment on compassionate ground to her daughter. The representation dated 08.11.2003 was rejected on the ground that there is no provision for considering the second application for compassionate appointment to another legal heir, when already an application is pending for consideration.

3.It is further submitted that the petitioner's application dated 27.03.2001 was rejected on 22.02.2014 on the ground that for the job of Office Assistant, the petitioner is not eligible and in terms of policy decision, the case of the petitioner cannot be considered. Contending that both the impugned orders are illegal and the application seeking appointment on compassionate ground to her daughter has to be considered, as now the petitioner is aged about 55 years, the petitioner has filed the present writ petition with the above said prayer.

4.The learned Special Government Pleader would submit that the compassionate appointment is not a matter of right. It is true that after the demise of the petitioner's husband, she made an application within a period of one year. When the said application is pending for consideration, she had made another application for appointment on compassionate ground to her daughter, which is beyond three years from the date of death of her husband.

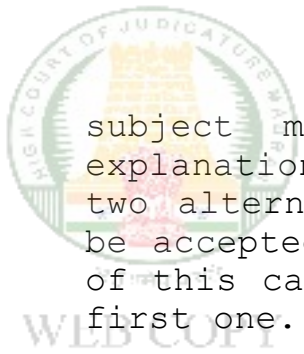
5.It is submitted that if the petitioner is otherwise eligible, the case of the petitioner would be considered. It is further submitted that the Government has issued guidelines on 13.09.2012 stating that when an application for compassionate appointment is pending for consideration, the second application would not be entertained. Hence, he would submit that the writ petition deserves to be rejected.

6.Heard the learned counsel on either side.

7.Admittedly, the husband of the petitioner died in harness on 06.01.2000. The petitioner has made an application seeking compassionate appointment on 27.03.2001. It is not in dispute that as there was no reply from the respondents, another representation was made by the petitioner seeking appointment on compassionate ground to her daughter. The contention of the petitioner would be justified. Further the second application is continuation of the first application and it cannot be treated as a fresh one.

8.The Government's guidelines, dated 13.09.2012, cannot be applied retrospectively, as only in 2012, it has been made clear that the second application shall not be entertained.

9.It is very clear in the impugned orders, which are the



subject matters of this writ petition, that there is no explanation with regard to providing compassionate appointment to two alternative persons, the rejection of the application cannot be accepted and that G.O.Ms.No.120 is not applicable to the facts of this case and the second application is in continuation of the first one.

10.In the present case on hand, the decision of the respondents that the wife of the deceased Government servant would be given with an alternative employment, cannot be now proceeded, as the Government has passed an order raising the age limit for compassionate appointment from 40 to 50, since the petitioner has already crossed 55 years. If the case of the petitioner is considered, the application will be rejected. As stated supra, the second application is in continuation of the first one, in which the petitioner has sought appointment on compassionate ground to her daughter.

11.In view of the above, the impugned orders in this writ petition are set aside and the respondents are directed to consider the petitioner's representation dated 08.11.2003 seeking appointment on compassionate ground to her daughter, within a period of 3 months from the date of receipt of a copy of this order, in the light of the principles laid down, if the petitioner's daughter fulfils the eligible criteria.

12.With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Commissioner of Agriculture,
O/o The Commissioner of Agriculture,
Chepauk, Chennai-600 005.
2. The Joint Director,
Department of Agriculture, Dindigul.

+ 1 CC TO Ms.M.PADMAVATHY, ADVOCATE IN SR No. 82568
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 82806

TA

TE/SV/SAR-4 : 03/12/2018 : 3P/5C