

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 13.03.2018

CORAM

THE HON'BLE MR.JUSTICE **S.M.SUBRAMANIAM****W.P. (MD) No.11531 of 2011**

WEB COPY

G.Sagunthala

... Petitioner

-vs-

1. The Director of Public Health Medicine and Preventive Medicine Department, Chennai -6.
2. The Deputy Director of Public Health Service and Preventive Medicine Department, Thanjavur, Thanjavur District.
3. The Project Director, Filaria and Malaria Department, District Head Government Hospital, Kumbakonam, Thanjavur District.
4. The District Treasury Officer, District Treasury, Thanjavur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records relating to the impugned order passed by the second respondent in Na.Ka.No.6734/10/A7, dated 22.08.2011 and to quash the same as arbitrary, illegal, non-speaking and violative of natural justice.

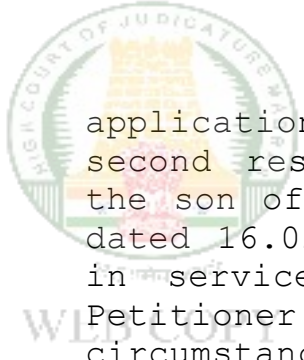
For Petitioner : M/s.M.Karunanithi

For Respondents : Mr.R.Sethuraman,
Special Government Pleader

O R D E R

The order, dated 22.08.2011, terminating the service of the Writ Petitioner, is under challenge in this Writ Petition.

2.The husband of the Writ Petitioner Late. Shri T.Gopal is employed as Filed Officer in the office of the third respondent and passed away on 02.06.2006, while he was on duty. On account of the sudden demise of the husband of the Writ Petitioner, the family was in penurious circumstances, since the husband of the Writ Petitioner was the sole bread-winner of the family. Thus, the son of the deceased employee Thiru.K.Rajinikanth submitted an



application seeking appointment on compassionate grounds. The second respondent considered the said application and appointed the son of the deceased employee as Field Officer in proceeding, dated 16.02.2007. The son of the deceased employee was continuing in service and unfortunately, on 28.07.2008, the son of the Petitioner Shri.K.Rajinikanth passed away. Under these circumstances, the Writ Petitioner, who is the wife of the deceased employee late.Shri.T.Gopal once-again submitted an application seeking appointment on compassionate grounds and the second respondent appointed the Writ Petitioner as Field Officer on 19.12.2008. The order, dated 19.12.2008 also was issued on compassionate grounds. Thus, it is made clear that on account of the death of the deceased employee Shri.T.Gopal, his son was earlier appointed on compassionate grounds and the Writ Petitioner was once-again appointed on compassionate grounds, which is impermissible in accordance with the scheme of compassionate appointment. However, the appointment order states that the Writ Petitioner was appointed on temporary basis and her service shall be terminated even without issuing any notice or providing any reason. Thus, it is made clear that the Writ Petitioner was temporarily appointed as Field Officer on compassionate grounds.

3.Subsequently, the authorities competent found that the Writ Petitioner was irregularly appointed on compassionate grounds in view of the fact that her son was already provided with an appointment on compassionate grounds on 16.2.2007 itself. A show-cause notice was issued to the Writ Petitioner on 22.07.2011 and on receipt of her explanation on 06.08.2011, the impugned order of termination was issued on 22.8.2011.The impugned order states that the Writ Petitioner was irregularly appointed as Field Officer on compassionate grounds. It is further stated that the son of the Writ Petitioner Shri.G.Rajinikanth was already appointed on compassionate grounds on account of the death of the deceased employee late.Shri T.Gopal, then the appointment of the Writ Petitioner was in violation of the terms and conditions of the scheme of compassionate appointment.

4.This Court is of an opinion that the order of appointment, dated 19.12.2008 issued to the Writ Petitioner states that the appointment was purely on temporary basis and the Writ Petitioner is liable to be terminated without any notice or providing any reason. Secondly, the son of the Writ Petitioner had been already appointed on compassionate grounds and he served and thereafter expired. Then there cannot be any second appointment on compassionate grounds on account of the death of the deceased employee. Erroneously, the authorities have granted two appointments on compassionate grounds. One to the son of the deceased employee and another to the wife of the deceased employee. Thus, it was a mistake committed by the respondents and rectification of such mistakes cannot be construed as invalid.



5.No person can be allowed to hold public office irregularly. Any irregular appointment is made, the same is liable to be terminated. Further, the Writ Petitioner was appointed on temporary basis and in the terms and conditions of the appointment itself has been mentioned in the order of appointment. This being the factum of the case, the Writ Petitioner has not established any ground for continuance of her appointment on compassionate grounds, in view of the fact that the appointment of the Writ Petitioner was irregular.

6.Accordingly the writ Petition is devoid of merits and accordingly, the writ Petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

1. The Director of Public Health Medicine and Preventive Medicine Department, Chennai -6.
2. The Deputy Director of Public Health Service and Preventive Medicine Department, Thanjavur, Thanjavur District.
3. The Project Director, Filariasis and Malaria Department, District Head Government Hospital, Kumbakonam, Thanjavur District.
4. The District Treasury Officer, District Treasury, Thanjavur District.

+1cc to Spl.Government Pleader Sr.No.55132
+1cc to Mr.N.Karunanithi, Advocate Sr.No.54842

VSN

VB/KK/SAR1/11.04.2018/3P/7C

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