

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-01-2019

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.34114 of 2005

And

W.P.M.P.No.36996 of 2005

A.Vennila ... Petitioner

Vs

1.The Commissioner,
H.R.& C.E. Board,
Nungambakkam,
Chennai.

2.The Assistant Commissioner,
H.R.& C.E. Board,
Kakidhapatrai,
Vellore,
Vellore District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent in Na.Ka.No.20010/2005-Z2 dated 29.6.2005 and quash the same and direct the respondents to relax educational qualification from 8th Standard to 7th Standard and to appoint the petitioner as an Office Assistant either in the Audit Office of HR&CE Board at Vellore or in the office of the second respondent, Assistant Commissioner, HR&CE Board at Vellore.

For Petitioner : Mrs.R.T.Sundari

For Respondents : Mr.M.Maha Raja,
Special Government Pleader
(HR&CE).

O R D E R

The order of rejection, rejecting the claim of the writ petitioner for appointing her on compassionate ground, is under challenge in the present writ petition.

2. The husband of the writ petitioner late Shri K.Anandaraj was employed in the Hindu Religious and Charitable Endowment Department and passed away on 13.12.1990, while he was in service.

3. On account of the sudden demise of the husband of the writ petitioner, the family of the writ petitioner was in penurious circumstances and was not in a position to lead their life. Thus, the writ petitioner submitted an application, seeking appointment on compassionate ground.

4. The Commissioner, HR&CE Department, issued a reply to the learned advocate, who sent notice on behalf of the writ petitioner, in proceedings dated 29.6.2005, stating that the case of the writ petitioner shall be considered in accordance with the rules and based on the education qualification of the writ petitioner.

5. The learned counsel for the writ petitioner states that the writ petitioner passed VIII Standard. However, the learned Special Government Pleader appearing for the respondents states that the writ petitioner is not qualified even for appointment to the post of Office Assistant. In view of the fact that the writ petitioner was not qualified, the benefit of compassionate appointment was not extended to the writ petitioner.

6. This apart, the writ petitioner was aged about 55 years as of now and even at the time of filing of the writ petition, the writ petitioner was aged about 42 years. Under these circumstances, the benefit of compassionate appointment, which is a concession, can never be extended to the writ petitioner.

7. The Scheme of compassionate appointment is an exception and a Special Scheme. Thus, the same is to be implemented strictly in accordance with the terms and conditions stipulated in the Scheme. The very purpose and the object of the Scheme is to mitigate the indigent circumstances of the family of the deceased Government employee. Thus, the scheme must be provided within a reasonable period of time, i.e., three years or at least five years, however, not later than that.

8. This being the scope of the Scheme, it is not as if one appointment to be provided to the legal heirs of the deceased employee. If such being the object, then the very Scheme violates Articles 14 and 16 of the Constitution of India.

9. Equal opportunity of public employment is a constitutional mandate. Equal opportunity must be provided to all the persons, who all are aspiring to secure public employments by participating in the open competitive process.

10. State being a model employer, is bound to follow the constitutional principles and perspectives in the event of implementing special schemes in a larger sense. Lakhs and lakhs of youths in this great Nation are burning their midnight lamps for securing public employment.

11. Under these circumstances, the State has to implement all such special schemes in a restricted manner, so as to ensure that the constitutional rights of all other citizen in general are not violated. Infringement of the right of the citizen in general is certainly impermissible and even in the matter of public employment such infringement is to be averted in all respects.

12. Therefore, the case of the writ petitioner in the present writ petition for providing appointment on compassionate ground that too after a lapse of about 28 years from the date of demise of the husband of the writ petitioner, cannot be considered and this Court is not inclined to consider the relief, as such, sought for by the writ petitioner in the present writ petition.

13. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Commissioner,
H.R. & C.E. Board,
Nungambakkam,
Chennai.

2.The Assistant Commissioner,
H.R. & C.E. Board,
Kakidhapatralai,
Vellore,
Vellore District.

+1 CC TO GOVERNMENT PLEADER SR.NO. 8453

WP No.34114 of 2005

A.SK (20/02/2019)