



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 04.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.6728 of 2015

1.M.Sumathi
2.R.Malathy

... Petitioners

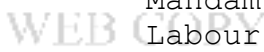
Vs

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Labour & Employment Department,
Secretariat, Chennai - 600 009.
2. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Municipal Development & Panchayat Raj,
Secretariat, Chennai - 600 009.
3. The District Collector,
Thiruvarur District,
Thiruvarur.
4. The Commissioner,
Panchayat Union,
Needamangalam,
Thiruvarur District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to G.O.M.S.No.165 Labour & Employment (Q-2) Department dated 30.08.2010 of the 1st respondent and the consequential order of the 3rd respondent bearing proceeding no.Na.Ka.No.0882/2011/A-3(Development) dated 07.02.2011 and quash the same and directing the respondents 1 to 3 to appoint the 1st petitioner in the 4th respondent, Panchayat Union as its employee on compassionate ground.

For Petitioners: Mr.K.Elangoo
For Respondents: Ms.K.Bhuvaneswari,
Additional Government Pleader



O R D E R

The instant writ petition is for a writ of Certiorari and Mandamus, calling for the records relating to G.O.M.S.No.165 Labour & Employment (Q-2) Department dated 30.08.2010 of the 1st respondent and the consequential order of the 3rd respondent bearing proceeding no.Na.Ka.No.0882/2011/A-3(Development) dated 07.02.2011 and quash the same and directing the respondents 1 to 3 to appoint the 1st petitioner in the 4th respondent, Panchayat Union as its employee on compassionate ground.

2.The petitioner no.1 and petitioner no.2 are daughters of one A.Murugesan, who was working as a Chemist in Needamangalam Panchayat Union, Thiruvarur District. Mr.A.Murugesan passed away in harness on 10.03.2006. He was survived by his two daughters, both of whom, were married on the date of his death. R.Malathy, the petitioner no.2 filed an application for appointment on compassionate basis. By an order dated 07.02.2011, the application of the petitioner no.2 was rejected on the ground that G.O.Ms.No.165, dated 30.08.2010 did not permit a married daughter for being considered for compassionate appointment on the death of the father.

3.Subsequent to the rejection, the petitioner no.1/M.Sumathi filed an application for appointment on compassionate basis. G.O.Ms.No.165 was struck down by this Court in W.P.No.14341 of 2012 dated 17.04.2014. The instant writ petition has been filed on 03.03.2015 for quashing G.O.Ms.NO.165, Labour & Employment(Q-2) Department, dated 30.08.2010 and consequently, the order dated 07.02.2011, by which the petitioners representation was rejected.

4.The facts are not in dispute. The petitioners father passed away on 10.03.2006. On 10.03.2006, G.O.Ms.No.165 of 2010 was not there. Therefore, the petitioners representation should have been considered as on 25.06.2006, ie., the date of the application. The petitioners representation was rejected on the basis of G.O.Ms.No.165 of 2010, which came into force only on 30.08.2010. Be that as it may, at any event, G.O.Ms.No.165 of 2010 has already been set aside by the above said Judgment. Therefore, the reason given to the case of the petitioner no.2 does not survive any longer. Further, the petitioner no.1 has also filed an application for being considered for compassionate appointment on 19.01.2015(after a period of 9 years after the death of A.Murugesan)

5. In view of the fact that the impediment in G.O.Ms.No.165 of 2010 does not exist any longer and in view of the fact that the Government has passed G.O.Ms.No.78 of 2017 dated 21.04.2017,



laying down parameters for appointment on compassionate basis, even for married daughters, the impugned order which is primarily based on G.O.Ms.No.165 of 2010 is set aside and the matter is remanded back to the respondents to once again consider the case of the petitioner no.1 and petitioner no.2 in the light of G.O.Ms.78 of 2017 and pass appropriate orders. Be it noted, this Court is not making any observation on the merits of the case of petitioner no.1 and petitioner no.2 and the respondents are directed to consider the case of petitioner no. 1 and petitioner no.2 independently and on the facts of the case and the facts of their respective eligibility.

6.The writ petition is disposed of. No costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

tsg

To

1. The Principal Secretary to Government,
Government of Tamil Nadu,
Labour & Employment Department,
Secretariat, Chennai - 600 009.
- 2.The Secretary to Government,
Government of Tamil Nadu,
Municipal Development & Panchayat Raj,
Secretariat, Chennai - 600 009.
- 3.The District Collector,
Thiruvarur District,
Thiruvarur.
- 4.The Commissioner,
Panchayat Union,
Needamangalam,
Thiruvarur District.

+1 CC to Mr.K.Elango, Advocate sr 91211.
+1 CC to The Govt. Pleader sr 91538.

W.P.No.6728 of 2015

SPD(CO)
SP(26/12/2019)