

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date:13.08.2019

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

W.P.No.15437 of 2019

P.Parimala

...Petitioner

Vs.

1.Government of Tamil Nadu,
Rep. By its Principal Secretary to Government,
Agricultural Department,
Fort St. George, Chennai - 600 009.

2.The Commissioner,
Department of Agriculture,
Chepauk, Chennai - 600 005.

3.The Joint Director,
Department of Agriculture,
Dharmapuri - 636 705,
Dharmapuri District.

...Respondents

Prayer: Petition filed under Article 226 of Constitution of India, for issuance of Writ of Certiorarified Mandamus calling for the records of impugned order made in Ka.No.Aa2/14879/2006 dated 12.07.2018 passed by the 3rd respondent herein and quash the same, consequently direct the respondents to appoint the petitioner as Godown Manager Grade III or any other suitable post in the 3rd respondent Division in order protect her family livelihood forthwith.

सत्यमेव जयते

For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.J.Pothiraj
Special Government Pleader

ORDER

The petitioner's father M.Palani was appointed as Unskilled Labour on 14.07.1987 by the Assistant Soil Chemist, Soil Testing Laboratory, Dharmapuri sponsored through employment exchange. According to the petitioner, her father was regularised as Night Watchman vide proceedings dated 05.05.1992. On 17.10.2000, the

petitioner's father died due to sudden illness, while he was in service. According to the petitioner, she has studied +2 and she was also registered in the local employment exchange.

2.After the death of her father, the petitioner's mother approached the 3rd respondent on 10.09.2001 seeking compassionate appointment for the petitioner, since the family of the petitioner was placed in indigent circumstances due to the sudden death of the petitioner's father. According to the petitioner, along with an application dated 10.09.2001, all required documents were enclosed for consideration.

3.After protracted correspondence between the officials, finally the 3rd respondent issued order on 05.05.2018 stating that the petitioner was not eligible to be considered for appointment as Typist and therefore, directed her to submit an application for appointment to the post of Junior Assistant. In the meanwhile, the petitioner completed B.Sc., B.Ed., (Maths) and therefore, she submitted an undertaking to work as Junior Assistant or Godown Manager Grade III. Thereafter, the 3rd respondent forwarded his recommendation to the 2nd respondent. Finally, the petitioner's application was rejected on 12.07.2018 stating that her father's service was not regularised as per Government Order in G.O.(Ms).No.399, Agricultural (AA4) Department, dated 22.12.2006 before his death and therefore, not eligible to get appointment under compassionate ground category. The said order of rejection is put to challenge in the present writ petition.

4.Mr.M.R.Jothimanian, learned counsel appearing for the petitioner would submit that the petitioner's father's services came to be regularised as early as 05.05.1992 which is evident from the regularisation order issued by the authority concerned. A copy of the regularisation order is also enclosed along with the typed set of documents. He would draw the attention of the said order which referred to Government Orders bringing the petitioner's father on a regular timescale with effect from 05.05.1992. According to the learned counsel, the G.O.(Ms).No.399, Agricultural (AA4) Department, dated 22.12.2006 which has referred to for rejecting the claim of the petitioner, in fact, referred to the regularisation of the petitioner's father from 05.05.1992 which is also evident from a copy of the Government Order enclosed in the typed set of documents. Therefore, the rejection order of the respondents suffers from non-application of mind and therefore, the same is liable to be quashed by this Court.

5.According to the learned counsel for the petitioner, on the death of the petitioner's father, the family has been struggling to make both ends meet and for more than 17 years,

the correspondence was being exchanged between the authorities and at the same time, the claim of the petitioner was also under active consideration, finally, the rejection order was passed only on 12.07.2018. Therefore, the petitioner is constrained to approach this Court seeking for relief as prayed for.

6. At this, Mr. J. Pothiraj, learned Special Government Pleader appearing for the respondents would submit that the petitioner's father's services were not regularised at all, as far as the records being maintained by the Department is concerned. In fact, in the counter affidavit, the relief as sought for by the petitioner has been rejected on the ground that her father's service was not regularised before his death and hence, as per the relevant Government Orders, the claim of the petitioner could not be considered i.e. appointment on compassionate ground. However, the learned Special Government Pleader would submit that it is always open to the petitioner to approach the authority concerned and produce all the relevant documents in her possession, including the order of regularisation.

7. In response to the said submission, the learned counsel for the petitioner would submit that the petitioner would produce all the necessary and relevant documents to the authorities concerned including the document evidencing the factum of regularisation with effect from 05.05.1992 before the death of the petitioner's father.

8. Since the document which is enclosed in the typed set of papers clearly discloses the fact of the petitioner's father being brought on regular timescale by regularising his services with effect from 05.05.1992 and in fact, the G.O. (Ms). No. 399, Agricultural (AA4) Department, dated 22.12.2006 would also refer to the regularisation of the petitioner with effect from 05.05.1992, the rejection order passed by the respondents clearly shows non-application of mind and therefore, the same is liable to be interfered.

9. In the said circumstances, the Writ Petition is allowed. The impugned order of the 3rd respondent in Ka.No.Aa2/14879/ 2006 dated 12.07.2018 is hereby set aside and the petitioner is directed to submit all the documents in her possession including the document regularising the services of her father with effect from 05.05.1992 and on such production of the documents, the authorities, if satisfied, is directed to consider the claim of the petitioner for grant of appointment on compassionate ground to the petitioner to any suitable post. The petitioner in this regard is directed to submit all the documents to the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order and on such production, the 3rd respondent is directed to pass appropriate orders within a

period of four weeks thereafter. It is also made clear that in the event of the petitioner establishing that her father's services came to be regularised as early as on 05.05.1992, the 3rd respondent is directed to grant appointment to the petitioner on compassionate ground against any suitable post. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Sgl

To

- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
Agricultural Department,
Fort St. George, Chennai - 600 009.
- 2.The Commissioner,
Department of Agriculture,
Chepauk, Chennai - 600 005.
- 3.The Joint Director,
Department of Agriculture,
Dharmapuri - 636 705,
Dharmapuri District.

+lcc to Mr.M.R.Jothimanian, Advocate Sr.68823
+lcc to the Government Pleader Sr.69399

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srg 13/09/2019

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