

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.6798 of 2014 &
M.P.No.1 of 2014

B.Kamalaveni

...

Petitioner

Vs.

1.The Director General of Police,
Kamarajar Salai,
Chennai - 600 004.

2.The Superintendent of Police,
Kancheepuram District.

... Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records relating to the order of the second respondent passed in the proceedings in Na.Ka.No.M1/17/863/2014, dated 23.01.2014 and quash the same and direct the respondents to consider the claim of the petitioner and provide any suitable post to the petitioner on compassionate ground.

For Petitioner : Mr.N.Suresh

For Respondents : Mr.M.Karthikeyan

Additional Government Pleader for R1 & R2

सत्यमेव जयते
O R D E R

According to the petitioner, while her husband was serving as Police Constable in Tamil Nadu Police Department, died on 01.03.1991. At the time of his death, he was 38 years old, leaving behind the petitioner, two daughters and a son as his successors. The Tahsildar, Kancheepuram issued a legal heir certificate on 30.04.1991 to prove the same. Thereafter, although the petitioner submitted an application to the second respondent on 20.03.1995, seeking compassionate appointment to her for the death of her husband, no reply has been received from the second respondent till 11.10.2001. Therefore, the petitioner made another representation on 01.09.2003, seeking appointment on compassionate ground to her son viz., Mr.Panneer

Selvam due to her illness. The said representation was rejected by the respondents for the reason that as per the Government Order in G.O.Ms.No.120 Labour and Employment Department, dated 26.06.1995, application for appointment on compassionate ground should be given within a period of three years from the date of death of the Government servant. Hence, the petitioner is before this Court.

2. The learned counsel for the petitioner would submit that the petitioner made an application for compassionate appointment for her on 20.03.1995 prior to the issuance of the Government Order in G.O.Ms.No.120 Labour and Employment Department, dated 26.06.1995, hence the impugned order, rejecting the application of the petitioner on the ground that she did not submit her application within a period of three years from the date of death of her husband as adumbrated in the said G.O., is liable to be set aside.

3. The learned Additional Government Pleader for the respondents would state that when the application was returned to rectify some defects, the petitioner, without resubmitting the application prior to 2010, submitted the application only in the year 2011, requesting the respondents to provide a job to her son, who is a minor. Therefore, it has to be construed that as if the the petitioner had made her application only in the year 2011, therefore, the impugned order rejecting her application based on the said G.O.Ms.No.120, is perfectly valid in law.

4. Heard the rival submissions and perused the materials available on record.

5. It is not in dispute that the petitioner made an application on 23.09.1995 to the second respondent seeking compassionate appointment to her, for the death of her husband. Though the contention of the respondents is that they returned the application for rectification of some defects, there is no material to show that the application was returned to the petitioner. It is also not in dispute that due to the health condition of the petitioner, in the year 2011, another request was made for compassionate appointment for her son, however, the respondents rejected the said application on the only ground that the said application is barred by limitation, by referring G.O.Ms.No.120, dated 26.06.1995.

6. This Court is not satisfied with the reason stated by the learned Additional Government Pleader that the said application is barred by limitation on the basis of the Government Order in G.O.Ms.No.120, dated 26.06.1995. In the case on hand, the petitioner submitted the application prior to the

Government Order, viz., 20.03.1995. Therefore, the respondents should have considered the application of the petitioner for compassionate appointment to her son. Even though the counter has been filed and reasons have been assigned in the counter affidavit, but, on a perusal of the impugned order, it seen that the application has been rejected only on the ground that it is barred by limitation. Therefore, the impugned order of the second respondent is quashed and the matter is remitted to the respondents for fresh consideration and pass orders after providing opportunity to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. I make it clear that this Court is inclined to quash the order only in respect of considering the Government Order in G.O.Ms.No.120, dated 26.06.1995 that the application is barred by limitation and insofar as other aspect is concerned, it is always open to the respondents to consider the same and pass orders.

7. Accordingly, the Writ Petition is allowed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

r n s

To

1.The Director General of Police,
Kamarajar Salai,
Chennai - 600 004.

2.The Superintendent of Police,
Kancheepuram District.

+1cc to Mr.N.Suresh, Advocate, S.R.No. 18108
+1cc to the Government Pleader, S.R.No. 17671

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BR(CO)
GN(20/03/2019)