

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.09.2019

CORAM

THE HON'BLE Mr.JUSTICE M.DHANDAPANI

W.P.No.17888 of 2019

J.Prabhu Esther Raj

... Petitioner

.vs.

1.The Director of School Education,
D.P.I.Complex (Employment Division),
Chennai- 600 006.

2.The Joint Director of School Education,
D.P.I.Complex (Employment Division),
Chennai- 600 006.

3.The Chief Education Officer,
Cuddalore,
Cuddalore District.

4.The District Education Officer,
Cuddalore,
Cuddalore District.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any other appropriate Writ, order or Direction in the nature of Writ directing the respondents to appoint petitioner in any suitable post commensurate with his qualifications, consequent on the death of petitioner brother, Thiru.J.Praveen Kumar on 01.11.2017 with all consequential service benefits.

For Petitioner : Mr.T.Dharani

For Respondents : Mr.C.Munusamy,
Special Government Pleader.

This Writ Petition has been filed praying for the issuance of Writ of Mandamus to direct the respondents to appoint petitioner in any suitable post commensurate with his qualifications, consequent on the death of petitioner brother, J.Praveen Kumar on 01.11.2017 with all consequential service benefits.

2. According to the petitioner, his brother one Praveen Kumar, while working as BT Assistant (English) died in harness leaving behind his wife and the petitioner herein as his legal heirs. The petitioner, being brother of the deceased made an application on 04.12.2018 to the respondents seeking to provide him employment on compassionate grounds. He also produced no objection letter given by the wife of the deceased employee, stating that she has no objection in granting compassionate ground in favour of the petitioner.

3. The petitioner, is a handicapped person and studied B.Com and according to him he is eligible for the post being provided to him. The grievance of the petitioner is that despite the application made by him on 04.12.2018 (i.e) within a period of three years from the date of death of the deceased employee, the respondents have not considered the claim of the petitioner. Therefore, the petitioner is before this Court.

4. Learned Special Government Pleader would submit that the petitioner is the brother of the deceased employee and he made application seeking to provide compassionate appointment which cannot be considered since the petitioner is not a dependant and moreover, his brother was married and wife is available, the family cannot be construed to be in indigent circumstances so as to provide employment to the family members of the deceased employee. Therefore, the learned Special Government Pleader prays to dismiss the writ petition.

5. A compassionate appointment is justified when it is granted to provide immediate succor to the deceased employee. Mere death of a Government employee in his harness, it does not entitle the family to claim compassionate employment. The competent authority has to examine the financial condition of the family of the deceased employee and only if it is satisfied that without providing employment, the family will not be able to meet the crisis, that a job is to be offered to the eligible member of the family of the deceased employee.

6. In this case, even on perusal of the affidavit filed in support of the writ petition it is revealed that subsequently the wife of the deceased employee who is the legal heir of the deceased employee again married and living separately and therefore as rightly contended by the learned Special Government Pleader, the family of the deceased employee cannot be construed as if it is in indigent circumstances so as to provide employment to the family members of the deceased employee on compassionate grounds. In case, the brother of the petitioner is died unmarried, certainly being his brother, the petitioner can

claim appointment on compassionate grounds but in this case, admittedly the petitioner's brother died having married and his wife also married to other person and mere no objection letter given by her would not entitle the petitioner to claim compassionate appointment since the petitioner is not dependant of the deceased person. In such view of the matter, this Court does not find any merits to entertain the present writ petition. Accordingly, the writ petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Director of School Education,
D.P.I.Complex (Employment Division),
Chennai- 600 006.
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- 3.The Chief Education Officer,
Cuddalore,
Cuddalore District.
- 4.The District Education Officer,
Cuddalore,
Cuddalore District.

+lcc to Mr.T.Dharani, Advocate Sr.81564

+lcc to the Government Pleader Sr.82279

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BS(CO)

srg 25/11/2019