

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.22058 of 2019 and  
W.M.P.No.21326 of 2019

R.Christi Angelin Sobia

... Petitioner

1.The Director of School Education,  
DPI Compound, College Road,  
Chennai-6.

2.The Chief Educational Officer,  
Villupuram, Villupuram District.

3.The District Educational Officer,  
Villupuram, Villupuram District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the Impugned order passed by the 1<sup>st</sup> Respondent in Mu.Mu.No.50194/J1/2010 dated 21.03.2014 and the consequential order passed by the 3<sup>rd</sup> Respondent in Ni.Mu.No.11037/A1/2009 dated 25.04.2014 and quash the same and consequently direct the Respondents to Provide suitable Employment to the Petitioner on compassionate grounds.

For Petitioner : Mr.R.D.Ashok Kumar

For Respondents : Mr.N.Karthikeyan  
Govt. Advocate (Edn.)

O R D E R

This Writ Petition has been filed, challenging the order of the 1<sup>st</sup> Respondent dated 21.03.2014 made in Mu.Mu.No.50194/J1/2010, by which the petitioner's request for appointment on compassionate ground was rejected and also the consequential order of the 3<sup>rd</sup> Respondent dated 25.04.2014 passed in Ni.Mu.No.11037/A1/2009, vide which, the the order of rejection passed by the 1<sup>st</sup> respondent was communicated to the petitioner by the 3<sup>rd</sup> Respondent. The petitioner also sought for a direction to the Respondents to provide suitable employment to

her on compassionate ground.

2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the Respondents. By consent, the writ petition itself is taken up for final disposal at the stage of admission.

3. The case of the petitioner is that her father died on 16.05.2007 due to heart attack, leaving behind her, her mother and her younger sister and she had submitted a representation as early as on 27.07.2007, followed by yet another representation dated 27.07.2009, seeking for suitable employment on compassionate ground and the same was forwarded to the 3<sup>rd</sup> Respondent by the Headmaster of the school. It is the further case of the petitioner that though the 3<sup>rd</sup> respondent had recommended suitably, the 1<sup>st</sup> Respondent did not take any steps on the proposal sent by the 3<sup>rd</sup> Respondent. However, to the utter shock and dismay, finally the 1<sup>st</sup> Respondent had passed an order, rejecting the claim of the petitioner on the ground that married women are not entitled to be considered for appointment on compassionate ground. The petitioner has stated that the issue of compassionate appointment to be extended to the married daughters too has already been settled and the Hon'ble Division Bench of this Court in the case of Director of School Education, DPI Campus, Chennai and another vs. Chitralkha, reported in (2016) 3 MLJ 63, wherein it was pleased to observe as follows:

"14. We are not in a position to accept the new plea of the appellants, with regard to any question of fact in the writ appeal. In the Writ Appeal preferred against the decision of the learned Single Judge, the only point to be decided is, as to whether the appellants would deny the compassionate appointment, on the ground that the respondent is a married woman in getting compassionate appointment, raising such a plea is against the gender equality, guaranteed under Articles 14, 15(1) and 16(2) of the Constitution of India.

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18. Thereafter, G.O.Ms.No.165, Labour and Employment Department, dated 30.08.2010 was issued making further improvements in the Scheme. As per G.O.Ms.No.165, married daughter of the deceased could also claim compassionate appointment, if she was unmarried at the time of making application. In the said Government Order, it is stated that taking into account the decisions of this Court, such relaxation was granted in providing compassionate appointment to married daughters, who got married

subsequent to the death of the Government servant and more particularly after making application for compassionate appointment.

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20. Having considered the facts and circumstances and the arguments advanced by both sides, it is crystal clear that the learned Single Judge has rightly allowed the writ petition and hence, the writ appeal is liable to be dismissed, as there is no merit.

21. In the result, this writ appeal is dismissed, confirming the order passed by the learned Single Judge. The second appellant is directed to issue appointment order in favour of the respondent herein on compassionate ground, within a period of four weeks from the date of receipt of a copy of this order..."

4. It is seen from the Indigent Certificate issued by the Tahsildar dated 19.07.2009 that there are three legal heirs to the deceased Government Servant, out of whom, the Petitioner is shown as unmarried, even though her younger sister got married, prior to her marriage and thus, it is crystal clear that the petitioner was not married either at the time of death of her father or at the time of making application for compassionate appointment dated 27.07.2007. Therefore, in the considered opinion of this Court, the judgment cited by the petitioner is squarely applicable to the facts of the present case and the mother of the petitioner has also given no objection certificate to extend the benefit compassionate appointment to her elder daughter, namely, the petitioner herein.

5. Following the said judgment (cited supra), taking into consideration the recommendation of the 3<sup>rd</sup> respondent, this Writ Petition is allowed and the impugned orders of the 1<sup>st</sup> Respondent in Mu.Mu.No.50194/J1/2010 dated 21.03.2014 and the consequential order passed by the 3<sup>rd</sup> Respondent in Ni.Mu.No.11037/A1/2009 dated 25.04.2014, are hereby set aside.

6. Even though the mother has given a No Objection letter for providing a suitable job to her elder daughter, viz., petitioner herein, the No Objection Letter, which is stated to be given by the younger sister of the petitioner has not been annexed in the typeset of papers and therefore, the petitioner shall produce the same to the 1<sup>st</sup> respondent, if already not furnished, along with the undertaking letter that she will take care of her mother throughout her life without causing any discomfort to her.

7. However, it is made clear that if there is any objection from the other legal heir, namely, younger sister of the petitioner, the appointment on compassionate ground shall be considered for anyone of the legal heirs by the 1<sup>st</sup> Respondent, provided such legal heir is fully qualified and the application is made within the stipulated time. However, whoever daughter is going to get public employment on compassionate ground, the mother shall be paid 25% of the monthly gross income as mentioned in the following paragraph.

8. After issuance of the appointment order to anyone of the legal heirs (other than the mother) on compassionate ground, 25% of the gross monthly income of the petitioner shall have to be directly paid to the mother by way of NEFT or RTGS every month by the 1<sup>st</sup> respondent, so as to ensure that the mother of the petitioner is not let down without any care and the said gross income is subject to income tax deductions. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Director of School Education,  
DPI Compound, College Road,  
Chennai-6.

2.The Chief Educational Officer,  
Villupuram,  
Villupuram District.

3.The District Educational Officer,  
Villupuram,  
Villupuram District.

+1cc to Mr.S.N.Ravindran, Advocate, SR.No.64862/19

W.P.No.22058 of 2019

Kak(20/08/2019)