



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.10253 of 2015

and

M.P. (MD) No.1 of 2015

K.R.Gayathri Devi

... Petitioner

-Vs-

1.The Assistant Collector,
Sivakasi, Virudhunagar District.

2.The Commissioner of Land Administration,
Chepauk, Chennai-600 005.

3.The Secretary,
Tamil Nadu Public Service Commission,
Chennai.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent made in ROC.No.A4/1372/2015 dated 18.03.2015 and quash the same and consequently, directing the first respondent to issue Destitute Widow Certificate to the petitioner.

For Petitioner : Mr.K.Govindarajan
For R1 and R2 : Mr.M.Jeyakumar,
Additional Government Pleader.
For R3 : Mr.K.K.Senthil

ORDER

The impugned order passed by the first respondent dated 18.03.2015, rejecting the application of the writ petitioner for grant of Destitute Widow Certificate, is under challenge in the Present Writ Petition.

2.The learned counsel appearing on behalf of the writ petitioner strenuously contended that the writ petitioner has not submitted any such false informations to the Tamil Nadu Public Service Commission for the purpose of securing the appointment to Group-4 services. The allegations against the writ petitioner by the respondents are that the writ petitioner secured appointment to Group-4 by falsely stating that she is a destitute widow and accordingly, availed priority quota provided for Destitute Widow Certificate.

3.The contentions of the writ petitioner is that she has submitted an application, seeking Destitute Widow Certificate and the same is under adjudication. The learned counsel for the writ



petitioner states that the writ petitioner lost her husband during the year 2001 in an accident. At that time, she was having a minor girl child, the writ petitioner was struggling for livelihood. Under those circumstances, she has applied for Group-4 examinations conducted by the Tamil Nadu Public Service Commission during the year 2012 under the quota for destitute widow. The writ petitioner is the permanent resident of Sivakasi and in order to obtain a Destitute Widow Certificate, the writ petitioner made a representation to the revenue authorities on 11.06.2012 and along with applications she had enclosed the death certificate, legal heir certificate and family card. During the interregnum period, when the application seeking Destitute Widow Certificate was pending before the authorities, the Tamil Nadu Public Service Commission had conducted the examinations and the writ petitioner had participated and became successful in the examination. She was appointed as Junior Assistant and posted in the Land Reforms Department on 18.02.2013.

4.The learned counsel appearing for the writ petitioner states that the writ petitioner is continuously working in the Land Reforms Department.

5.The learned counsel for the writ petitioner states that the writ petitioner is a destitute widow and the facts recorded in the impugned order are incorrect. The writ petitioner had not re-married anybody and therefore, she is entitled for the Destitute Widow Certificate. Earlier, the writ petitioner filed W.P.(MD) No.1678 of 2015 and this Court on 11.02.2015, directed the first respondent to consider the request of the writ petitioner at the earliest. The writ petitioner is allowed to continue in the Department, subject to the condition that she would produce the Destitute Widow Certificate. So far, the writ petitioner has not produced Destitute Widow Certificate as per the terms and conditions of appointment as well as the instructions provided by the Tamil Nadu Public Service Commission. Under these circumstances, the learned counsel for the writ petitioner states that the writ petitioner should be allowed to continue in service and she has not re-married anyone and the impugned order is liable to be scrapped.

6.The learned Additional Government Pleader appearing on behalf of the official respondents disputed the contentions raised on behalf of the writ petitioner by stating that the writ petitioner submitted an application to participate in the Group-4 examination under the destitute widow category. The writ petitioner was selected under the priority category of destitute widow and she was appointed. Thus, the writ petitioner is bound to submit Destitute Widow Certificate, immediately, after her appointment. However, on account of the litigious pendency, the writ petitioner is continuing in service. The writ petitioner made a request to the authorities to grant time for production of Destitute Widow Certificate by stating that her application was pending before the competent authorities at Sivakasi.



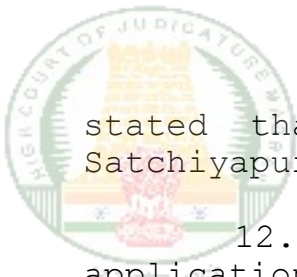
7.The learned counsel appearing for the Tamil Nadu Public Service Commission also reiterated that the selection of the writ petitioner was under the priority category of destitute widow and she was selected provisionally subject to the condition that the petitioner should submit a Destitute Widow Certificate before appointment. However, the writ petitioner has not produced any such certificate so far. Appointment was made subject to the condition that in the absence of production of Destitute Widow Certificate, her service would not be confirmed at all.

8.On a perusal of the impugned order, this Court is of the considered opinion that the writ petitioner submitted an application on 04.12.2014 and thereafter, the authorities competent conducted a detailed enquiry. As per the facts recorded after conducting enquiry by the revenue authorities, the writ petitioner got married with one K.Muthukumar on 12.11.1999 and her husband died on 11.09.2001. After the death of her husband, the petitioner was living in her mother's house. During that period, the writ petitioner applied for Group-4 examination under the Destitute Widow category in March, 2012 and after clearing the examination, she was appointed as Junior Assistant in the Land Reforms Office, Chennai.

9.The revenue officials had gone through the back file of the office and they found that the writ petitioner had already applied for Destitute Widow Certificate previously, in her petition dated 22.01.2013 in the office of the Assistant Collector, Sivakasi. Her petition was forwarded by the then Revenue Divisional Officer, Sivakasi to the Tahsildar, Sivakasi in vide N.Dis.A4/322/2012, dated 22.01.2013 for enquiry and submit a report. The Tahsildar, Sivakasi forwarded the petition to the Revenue Inspector, Sivakasi firka vide Spl.Reg.No.6/13, dated 22.01.2013 for enquiry and submit a detailed report.

10.The Revenue Inspector, Sivakasi firka inspected the addresses given in the petition of Gayathri Devi (petitioner) on 04.02.2013 and he found that the petitioner was not living in her house, only her father and mother was living there and therefore, the statement of both person's were recorded.

11.The Revenue Inspector, Sivakasi firka inspected the premises, enquired her father, namely, Rengasamy and her mother namely, Santha W/o.Rengasamy and both are her in-laws. The father of the writ petitioner submitted a written statement to the Revenue Inspector, Sivakasi firka on 27.02.2013. The father of the writ petitioner has stated that after the death of the petitioner's husband, the writ petitioner fell in love with one Tirupathi Raja S/o. Kalimuthu, address Thiruthangal Village of Sivakasi and later on she married him. The writ petitioner delivered one female child with Tirupathiraja and the name of the child is Janashri. The child was studying during the relevant point of time in LKG., Standard in Ramraj Metriculation School in Sivakasi. The officials further



stated that both of them were living in State Bank Colony, Satchiyapuram, Sivakasi.

12.The entire facts reveals that by suppressing the earlier application submitted by the writ petitioner dated 22.01.2013, seeking Destitute Widow Certificate, she made subsequent application on 04.12.2014 after her selection to Group-4 Services.

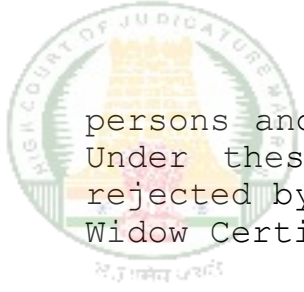
13.The mother of the writ petitioner namely Santha W/o Rengasamy also enquired and she has also submitted her statement to the Revenue Inspector, Sivakasi firka on 27.02.2013 and repeated the same story revealed by the father of the writ petitioner.

14.The mother of the second husband of the writ petitioner namely, Guruvammal, W/o.Kalimuthu, was also enquired by the revenue officials and the mother of Thirupathi Raja has stated that her son namely, Thirupathy Raja was working in Susi Auto, Thirumangalam, Madurai District. He married the Gayathri Devi D/o.Rengasamy, seven years before. Both of them had a daughter namely, Janashri through their wedlock. Further, she told that the writ petitioner joined CLA Office, Chennai before one week to that date. She was living in Women's Hostel in Chennai. Her neighbour namely, T.Chitrakala, W/o. Tamraj Selvam (Address 2/280-O, State Bank Colony, V.S.K.D.Nagar, Sivakasi) witnessed her statement and told that all the facts in the statement were true.

15.Based on the detailed enquiry, the Tahsildar, Sivakasi, has submitted a report on 03.04.2013. Accordingly, the authorities came to the conclusion that the writ petitioner was re-married and she is not a destitute widow and no such certificate can be issued to her. Thereafter, the Revenue Divisional Officer, Sivakasi firka issued a notice to the writ petitioner on 01.07.2013, citing these facts in the notice. The Revenue Divisional Officer rejected the petition on the ground that the writ petitioner re-married and after the re-marriage, she submitted an application to issue Destitute Widow Certificate to the office.

16.The authorities have come to the conclusion that the writ petitioner in her statement dated 13.03.2015 had hidden many facts regarding her re-marriage and her second daughter born through the second marriage. The writ petitioner also hid that she had already applied for getting a Destitute Widow Certificate in the office of revenue by way of an application dated 22.01.2013. At the outset, the writ petitioner had suppressed all these facts regarding her re-marriage and the child born out of their wedlock between Thirupathi Raja and the writ petitioner.

17.In the Government Order issued in G.O.Ms.No.395, P & AR Department, dated 04.11.1998, certain conditions stipulated for the purpose of issuance of the Destitute Widow Certificate. For the issuance of certificate, the widow should not be re-married, she should not have any property, she should not be supported by any



persons and her income should not be more than Rs.4,000/-per month. Under these circumstances, the claim of the writ petitioner was rejected by the Assistant Collector, Sivakasi for grant of Destitute Widow Certificate.

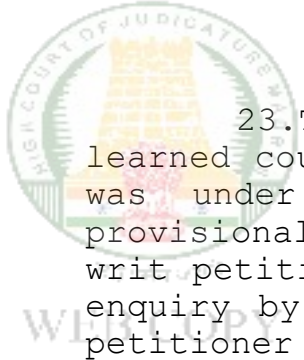
18.Considering the entire facts and circumstances and the recorded fact finding by the competent authority, this Court is of the considered opinion that the writ petitioner had suppressed certain vital material facts and made an attempt to get Destitute Widow Certificate.

19.Priority category is meant for appointment to genuine persons, who are all falling under the category of destitute widow. A person, who has suppressed certain facts and made an attempt to get such a Certificate of Destitute Widow, can never be allowed to continue in Government services, in view of the fact that her initial appointment itself was under the priority category of destitute widow.

20.Securing public employment by misrepresentation, suppression of facts or by falsification of records, can never be tolerated and the Courts cannot encourage such a practice of securing public employment by the citizen.

21.Revealing the truth regarding the status of a candidate is paramount importance. Suppression of material facts is a ground for rejection of application itself. However, the writ petitioner was appointed only on the ground that she must produce Destitute Widow Certificate and only on such production of the certificate, her appointment will be confirmed. Now, the fact reveals that the writ petitioner has not only suppressed the material facts but made an attempt to secure the Destitute Widow Certificate by manipulating statements and applications. Such a conduct of the writ petitioner shows that she is not fit to continue in Government service.

22.Appointments to the public posts are to be made strictly in accordance with the rules in force. Equal opportunity is to be provided in order to ensure the equity clause enunciated in the Constitution. In the event of appointing such ineligible persons in the priority category, the right of the rightful candidate under the category is denied. For instance, if a genuine person falling under the priority category of destitute widow submits an application, then, an opportunity of rightful candidate is taken away by a wrongful candidate, who is not destitute widow at all. Thus, in the event of such illegal or irregular appointments, the rights of rightful candidates are infringed. Thus, the Courts cannot encourage such appointments made by way of suppression of facts. Mere continuance of service cannot constitute a ground for sympathy consideration by this Court. Thus, the contentions of the writ petitioner that the petitioner is continuously working, is of no avail and the manner in which the writ petitioner secured public employment is fraudulent.



23. The learned Additional Government Pleader as well as the learned counsel for the TNPSC also reiterated that selection itself was under the priority category of destitute widow and the provisional selection was made subject to the condition that the writ petitioner should submit Destitute Widow Certificate. Now, on enquiry by the Revenue officials, the fact revealed that the writ petitioner has not at all a destitute widow and she got re-married and from and out of the second marriage, the writ petitioner delivered one girl child, who was studying L.K.G., in Kamaraj Matriculation School in Sivakasi during the relevant point of time.

24. This being the factum, the writ petitioner is not entitled for any relief as such sought for in the present Writ Petition and the respondents are bound to act with reference to the terms and conditions of selection and appointment of the writ petitioner in accordance with law and by following the procedures contemplated.

25. With these observations, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Assistant Collector,
Sivakasi, Virudhunagar District.

2. The Commissioner of Land Administration,
Chepauk, Chennai-600 005.

3. The Secretary,
Tamil Nadu Public Service Commission,
Chennai.

+1 CC to M/s.K.GOVINDARAJAN, Advocate SR-70595.

+1 CC to SPL GP SR-70698.

W.P(MD)No.10253 of 2015

CS: (08/07/2019) 6P 6C