



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P. (MD) No.16065 of 2015

and

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

B.Guruvammal

... Petitioner

Vs

1.The State of Tamilnadu

represented by Secretary to Government,
Rural Development and Panchayat Raj Department,
Fort St.George,
Chennai - 600 009.

2.The Director of Rural Development and Panchayat Raj,
Panagal Building,
Chennai- 600 015.

3.District Collector / Chairman,
District Rural Development Agency,
Thoothukudi District,
Thoothukudi.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the 3rd respondent in his letter Na.Ka.No.Val2/26354/2015 dated 12.08.2015 and quash the same as illegal and consequently direct the third respondent to appoint the petitioner on compassionate ground in accordance with the G.O. (Ms) No.102, date 13.07.2015 issued by the Government of Tamilnadu Rural Development and Panchayat Raj Department in any one of the posts according to the petitioner's qualification.

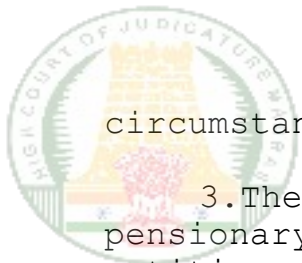
For Petitioner : Mr.M.S.Jeyakarthi

For Respondents : Mr.D.Muruganantham

ORDER

The order of rejection dated 13.07.2015, rejecting the claim of the writ petitioner for providing appointment on compassionate ground, is under challenge in the present writ petition.

2.The husband of the writ petitioner was employed as Village Panchayat Secretary of Kollankinaru Village, Ottapidaram Taluk, Thoothukudi District and died on 29.05.2014 while he was in service. On account of the sudden death of the Government employee, the family of the writ petitioner was in penurious



circumstances.

3.The learned counsel for the petitioner states that the pensionary benefits are also yet to be settled. The writ petitioner is having two minor daughters namely Vishnu Priya and Subha Sri, aged about 11 years and 9 years. Both the children, during the relevant point of time, were studying in school. The family was in exigency circumstances and they were not in a position to lead their life.

4.Under these circumstances, the petitioner submitted an application, seeking appointment on compassionate grounds on 14.07.2014, immediately after the death of the husband of the writ petitioner. The said application was rejected by the respondents on the ground that there is no scheme for providing appointment on compassionate grounds in the Panchayat Union. The District Collector issued the order of rejection stating that there is no provision to provide appointment on compassionate grounds to the writ petitioner. Thus, the writ petitioner is constrained to move the present writ petition.

5.The learned counsel for the petitioner made a submission that the Government issued G.O.(Ms)No.102, Tamilnadu Rural Development and Panchayat Raj Department dated 13.07.2015, extending the scheme of compassionate appointment to the legal heirs of the deceased Panchayat Secretary of Kollankinaru Village, Ottapidaram Taluk, Thoothukudi. The order reads as under:

"2.After careful examination, the Government have accepted the proposal of the Director of Rural Development and Panchayat Raj and order to sanction Compassionate Ground appointment to the legal heirs of the Panchayat Secretaries who die while in service to the post of Night Watchman, Office Assistant and Record Clerk according to the prescribed educational qualification and to the post of Junior Assistant as per Tamil Nadu Ministerial Service Rules, subject to fulfilling the conditions laid down by the Government (under recruitment rules)."

6.This apart, the claim of the writ petitioner was rejected after the issuance of G.O.(Ms)No.102 dated 13.07.2015. Thus, the District Collector had not considered the case of the writ petitioner with reference to said Government Order. A similar issue with reference to the said G.O.(Ms)No.102 dated 13.07.2015, was decided by the Principal Bench of this Court in W.P.No.42273 of 2016 dated 31.08.2017. This Court passed an order as under:

"6.Heard the respective learned counsels. This Court is of the view that the deceased employee expired on 15.05.2014 and even before submission of the application by the writ petitioner, the G.O.(Ms)No.102, Rural Development and Panchayat Raj (E5) Department, dated



13.07.2015, was issued, extending the benefit of compassionate appointment to the Panchayat Secretary and the application was filed by the writ petitioner on 02.11.2015 after implementing the scheme. The respondents cannot say that the application need not be considered based on the Government Order issued in G.O. (Ms)No.102, dated 13.07.2015. Thus, the writ petitioner has got over the right to avail the benefit of appointment on compassionate ground, which is extended to the post of Panchayat Secretary by the said Government Order. Eligibility criteria in respect of the date of death has not been stipulated in the Government order. Eligibility criteria in respect of the date of death has not been stipulated in the Government Order. In view of this fact, the order impugned is liable to be scrapped.

7. Accordingly, the order impugned in this writ petition passed by the second respondent in proceeding Na.Ka.No.1122/2016/Pa.Aa3 dated 18.04.2016 is quashed and the respondents are directed to re-consider the case of the writ petitioner for compassionate appointment on merit and in accordance with law and pass orders within a period of 12 weeks from the date of receipt of a copy of this order. Writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed."

7. The said order passed in the writ petition was confirmed by the Hon'ble Division Bench of Madras High Court, in W.A.No.2506 of 2018 dated 13.11.2018. Under these circumstances, the case of the writ petitioner is to be considered for providing appointment on compassionate grounds. The rejection order is undoubtedly in violation of the Government Policy in the matter of providing appointment on compassionate grounds to the legal heirs of the Panchayat Secretary in village Panchayat.

8. In view of the facts and circumstances of the case, the impugned order passed by the third respondent in Letter No.Na.Ka.No.Val2/26354/2015 dated 12.08.2015 is quashed. The writ petitioner is directed to submit an application seeking appointment on compassionate grounds along with all other documents. On receipt of the application from the writ petitioner, the third respondent is directed to consider the case of the writ petitioner in accordance with the terms and conditions of the scheme of compassionate appointment and if the writ petitioner is qualified and suitable, the writ petitioner is directed to be appointed in any one of the suitable post within a period of 12 weeks from the date of receipt of a copy of this order.



9. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl. Side)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The State of Tamilnadu
represented by Secretary to Government,
Rural Development and Panchayat Raj Department,
Fort St. George,
Chennai - 600 009.
2. The Director of Rural Development and Panchayat Raj,
Panagal Building,
Chennai - 600 015.
3. District Collector / Chairman,
District Rural Development Agency,
Thoothukudi District,
Thoothukudi.

+1CC TO MR. M. S. JEYAKARTHIK, Advocate Sr. No. 69871
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR. No. 69773

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

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GKG (CO)

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