

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.01.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.2450 of 2019

Theresa Mary

...Petitioner

Vs.

1. Government of Tamil Nadu,
Rep. By its Secretary to Govt.
Municipal Administration & Water Supply Department,
Fort St. George, Chennai 600 009.
2. The Commissioner,
Greater Corporation of Chennai,
Rippon Buildings,
Chennai 600 003.
3. The Regional Zonal Officer,
Region 12,
Greater Corporation of Chennai,
Chennai 600 016.
4. The Assistant Executive Engineer,
Region 12,
Greater Corporation of Chennai,
Chennai 600 016.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records pertaining to the order No.Ma.A.12.Na.Ka.Num.P.35/5484/2018 dated 07.12.2018 issue by the third respondent, quash the same and consequently direct the respondents to grant appointment to the petitioner on compassionate ground.

For Petitioner

:Ms.Anna Mathew for
for Mrs.S.Meenakshi

For Respondents

:Mr.A.Zakir Hussain
Government Advocate for R1 to R4

O R D E R

The present Writ Petition has been filed challenging the order passed by the third respondent rejecting the application given by the petitioner requesting for granting her Compassionate Appointment.

2. The father of the petitioner was employed as a Sanitary Worker in the Corporation of Chennai and he passed away while in service on 17.08.2010. The petitioner made an application on 25.08.2010 seeking for Compassionate Appointment before the third respondent. The petitioner had a brother and he gave a no objection letter in favour of the petitioner.

3. The petitioner got married and the same ended in a divorce and according to the petitioner, she is still entitled to be considered eligible for Compassionate Appointment as per the G.O.Ms.No.155 dated 16.07.1993.

4. When the application given by the petitioner was under consideration, there was a dispute raised by the legal heirs of the second wife of the petitioner's father. Therefore, the petitioner was not able to get a Legal Heirship Certificate. The matter reached a Civil Court and the suit was filed in OS No.1018 of 2012, on the file of the District Munsif Court, Alandur and by a judgment dated 06.09.2014, the petitioner and her brother were declared to be the legal heirs. Ultimately based on the judgment of the Civil Court, the Tahsildar issued a Legal Heirship Certificate on 29.11.2016. This Legal Heirship Certificate was produced before the third respondent and thereafter, there was no further action on the side of the respondents.

5. On repeated representations made by the petitioner, the fourth respondent by his letter dated 12.12.2017, directed the Tahsildar, Alandur Taluk, to submit a report regarding the status and income of the petitioner. A report was submitted on 05.02.2018 and the consideration was going on at a slow pace where the petitioner was asked for one clarification after another.

6. The third respondent has ultimately passed the impugned order dated 07.12.2018 rejecting the claim made by the petitioner seeking for Compassionate Appointment and the same has become a subject matter of challenge in the present writ petition.

7. Ms. Annamathew, learned counsel appearing for S. Meenakshi, on behalf of the petitioner submitted that the impugned order of the third respondent suffers from total non-application of mind. The learned counsel submitted that the third respondent has passed the impugned order on the premise that the application itself was given beyond a period of three years from the date of death of the father of the petitioner. The learned counsel submitted that this finding given by the third respondent is against records and even in the letter given by the fourth respondent to the Tahsildar, Alandur Taluk, seeking for a report, it has been clearly stated that the petitioner has made an application for Compassionate Appointment on 25.08.2010 and therefore, this has been totally disregarded and not taken note of by the third respondent. The learned counsel concluded her arguments by submitting that the petitioner is entitled to be given Compassionate Appointment since she satisfies all the requirements and therefore, the impugned order passed by the third respondent requires interference.

8. The learned Standing Counsel appearing on behalf of the Chennai Corporation submitted that the applications submitted by the petitioner seeking for Compassionate Appointment reached the respondent only after three years and since there was a substantial delay in submitting the application, the third respondent was not in a position to consider the application and it was rightly rejected by virtue of the impugned order dated 07.12.2018. The learned counsel submitted that there are absolutely no grounds to interfere with the order passed by the third respondent.

9. This Court has carefully considered the submissions made on either side and the materials available on record.

10. Here is a case where the petitioner has been made to run from pillar to post right from the year 2010 onwards by making one query after the other, while considering the application made by the petitioner seeking for Compassionate Appointment. The records make it clear that the petitioner had applied for Compassionate Appointment within 10 days from the death of her father. The application was accompanied by the no objection given by the brother of the petitioner. The petitioner was not able to get the legal heirship certificate and therefore, she had to approach a Civil Court and contest a suit against the children of the second wife of the petitioner's father and ultimately a decree was also passed in favour of the petitioner.

Even thereafter, the petitioner was made to give one clarification after another and produce various documents.

11. It is clear from the letter dated 12.12.2017 sent by the fourth respondent to the Tahsildar, Alandur Taluk, seeking for particulars of the status and income of the petitioner, wherein the application made by the petitioner has been mentioned and specifically the date 25.08.2010 finds place in this letter. The Tahsildar has also given a report on 10.04.2018 to the fourth respondent. The entire records were transferred to the file of the third respondent and thereafter, the third respondent has passed the impugned order.

12. It is clear from the impugned order that the third respondent has considered the application without any application of mind. It is not known, as to how, the third respondent came to a conclusion that the petitioner had given a request for Compassionate Appointment only after three years from the death of her father. It looks like the third respondent created a ground only for the sake of rejecting the application made by the petitioner. It is nobody's case that the petitioner had submitted her application requesting for Compassionate Appointment after three years from the date of the death of her father. As rightly contended by the learned counsel for the petitioner, the premise on which the impugned order was passed, suffers from complete non-application of mind and it in fact runs contrary to the records that were placed before this Court. The records show that the petitioner had given the application on 25.08.2010, within 10 days from the date of death of her father.

13. In view of the above discussion, this Court has no hesitation to interfere with the impugned order passed by the third respondent dated 07.12.2018 and accordingly, the same is hereby quashed. The third respondent is directed to again consider the application made by the petitioner for Compassionate Appointment along with all the available records and if the petitioner fulfills all the requirements, shall pass appropriate orders granting Compassionate Appointment, within a period of six weeks from the date of receipt of the copy of this order.

14. In the result, this Writ Petition is allowed with the above direction. No costs.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Govt.
Government of Tamil Nadu,
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 4. The Assistant Executive Engineer,
Region 12,
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- +1 CC to Mr.S.Sakthivel, Advocate sr 1175.
+1 CC to The Govt. Pleader sr 1352.

W.P.No.2450 of 2019

BP (CO)
SP (28/02/2020)

सत्यमेव जयते

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