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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2020

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THE HON'BLE Mr. JUSTICE M.GOVINDARAJ

W.P.No.21233 of 2012

and

MP.No.1 of 2012

G.Gokila

... Petitioner

Vs.

1.The District Collector,
Collectorate,
Salem District.

2.The Commissioner of Panchayat Union,
O/o.The Panchayat Union,
Omalar, Salem District.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records of the proceedings of the second respondent issued in Na.Ka.No.1521/2011/A1 dated 06.09.2011 and the proceedings issued in Na.Ka.No.2830/2003/A3 dated 14.11.2006 and quash the same with the consequential direction, directing the respondents to consider me for compassionate ground appointment, without reference to my martial status, by considering indigent circumstances.

For Petitioner : Mr.V.RaviKumar

For Respondents: Mr.R.Janaki
Additional Government Pleader
[for R1]
No Appearance [for R2]

O R D E R

The petitioner's mother was appointed on 25.01.1971 as a sewing Mistress and posted to Rural Women Welfare Organization. Her father expired on 11.10.2001 and within a short period her mother also expired on 23.07.2003. Now, the petitioner and her brother are living in penurious circumstances. Since she is a graduate in B.Sc.Physics, on 29.10.2003, she applied for compassionate ground appointment with the consent of her brother. When the application was



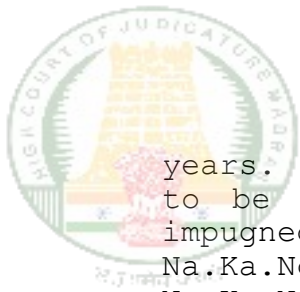
pending, on 21.05.2004 she got married. Thereafter, on 14.11.2006, the 2nd respondent has returned the application on the ground that only an unmarried daughter is entitled for compassionate ground appointment and advised her brother to apply for the post. On the basis of the letter issued by the respondents dated 14.11.2006 her brother applied for compassionate appointment on 07.05.2008, this letter was also rejected by the respondent on 19.05.2008 on the ground that it was submitted after a period of three years. Aggrieved over the same, the petitioner is before this Court.

2. According to the learned counsel for the petitioner, the Government had issued G.O.Ms.NO.165 Labour and Employment Department dated 30.08.2010, wherein it is clarified that even a married daughter is entitled to appointment on compassionate ground provided that she undertakes to support her family. Further, the application for compassionate appointment was made within a period of three months from the date of death of her mother. Having advised her brother to apply for compassionate appointment, now the respondent cannot take a technical stand as contended by the petitioner that the application is belated. Therefore, she seeks the order of rejection to be set aside.

3. Ms.R.Janaki, learned Additional Government Pleader would contend that the married daughter is not dependent on her mother and therefore, she is not entitled for appointment and her brother has applied only after three years and the application made beyond the period of three years cannot be entertained. Therefore, the revision order passed by the respondents is valid and legal. Hence, the writ petition is not maintainable.

4. I considered the submissions on both sides.

5. It is well settled by very many judgments of this Court that the married daughter is also entitled to compassionate ground appointment provided that she undertakes to take care of the family. In the instant case, both the parents expired within a short duration successively. Therefore, the unmarried daughter also becomes a dependent child and as such, is entitled to compassionate appointment. There cannot be any discrimination on the basis of gender. The rejection order passed by the respondents contrary to G.O.Ms.165 Labour and Employment Department dated 30.08.2010 is illegal. Since, the application for appointment under the compassionate ground quota was made within three months it is in time. The respondent had rejected the application made by the daughter and advised her to make an application through her brother. After advising the son of the deceased to apply for the appointment, the respondent cannot take shelter on technical ground that application was not made within three



years. Therefore, the petitioner and her brother are entitled to be considered for compassionate appointment. Hence, the impugned order passed by the 2nd respondent in Na.Ka.No.1521/2011/A1/1 dated 06.09.2011 and Na.Ka.No.2830/2003/A3 dated 14.11.2006 are set aside and a direction is given to consider any one of the application either by the petitioner or by her brother for compassionate ground appointment. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

Accordingly, the proceedings of the second respondent issued in Na.Ka.No.1521/2011/A1 dated 06.09.2011 and Na.Ka.No.2830/2003/A3 dated 14.11.2006 are set aside and the writ petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Collectorate,
Salem District.

2.The Commissioner of Panchayat Union,
O/o.The Panchayat Union,
Omalur, Salem District.

+1cc to M/s.V.Ravikumar, Advocate SR.6603

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VSN II(CO)
CB(21/10/2020)