

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22000 of 2013

G.Sowmiya

... Petitioner

Vs.

1.The Executive Director,
Food Corporation of India,
Zonal Office,
Chennai – 600 006.

2.The General Manager,
Food Corporation of India,
Regional Office,
Chennai.

3.The Zonal Manager,
Food Corporation of India,
Zonal Office,
No.3, Haddows Road,
Chennai – 600 006.

4.The Area Manager,
Food Corporation of India,
District Office,
Coimbatore 12.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorarified Mandamus calling for the records on the

file of the first respondent in No.EII /1(29)/2012 – RPI dated 22.05.2013 and quash the same and direct the respondents to consider the case of the petitioner for an appointment on compassionate grounds in accordance with law.

For Petitioner : Mr.S.Selvathirumurugan
For Respondents : Mr.S.Vijayakumar for R2

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records on the file of the first respondent in No.EII /1(29)/2012 – RPI dated 22.05.2013 and to quash the same and to direct the respondents to consider the case of the petitioner for an appointment on compassionate grounds in accordance with law.

2.The case of the petitioner is that the petitioner's father was working as Assistant Grade II General in Food Corporation of India, Coimbatore and died on 15.09.2010, while he was in service. Initially, the petitioner's mother made application to the respondents for compassionate appointment on 18.02.2011 and thereafter requested the respondents to cancel her application and recommended the petitioner for compassionate appointment.

3.It is the further case of the petitioner that the petitioner made application for compassionate appointment on 09.02.2012 to the third respondent with copy marked to the other respondents and since she was not given appointment order, the petitioner filed W.P.No.6648 of 2013 before this Court. This Court vide order dated 22.03.2013 issued direction to the respondent to pass orders in accordance with the Scheme governing compassionate appointment. Thereafter, the first respondent vide the impugned order rejected the claim of the petitioner. Hence, this writ petition.

4.The learned counsel appearing for the petitioner would submit that initially, the petitioner's mother made application for compassionate appointment. Since she crossed the age of 50 years, she requested the respondents to cancel her application and recommended the petitioner for compassionate appointment. Thereafter, the petitioner made application for compassionate appointment on 09.02.2012 which is well within a period of three years from the date of death of the petitioner's father.

5.The learned counsel appearing for the petitioner relied upon

the decision of the Hon'ble Apex Court reported in **2005 (10) SCC 289 (Govind Prakash Verma Vs. Life Insurance Corporation of India)** and would further submit that the Scheme of compassionate appointment is over and above whatever is admissible to the legal representatives of the deceased employee as benefits of service is which one gets on the death of the employee. Therefore, compassionate appointment cannot be refused on the ground that any member of the family received the amounts admissible under the Rules. Accordingly, he prayed for allowing the writ petition.

6.Per contra, the learned counsel appearing for the second respondent relied upon the decision of the Hon'ble Apex Court reported in **(2008) 11 SCC 384 (Mumtaz Yunus Mulani (Smt.) Vs. State of Maharashtra & Others)** and would submit that compassionate appointment has to be made considering the terms of the Scheme and in case the Scheme lays down a criterion that if the family of the deceased employee gets a particular amount as retiral/ terminal benefits, dependent of the deceased employee would not be eligible for employment on compassionate grounds.

7.The learned counsel appearing for the second respondent further relied upon the decision of the Hon'ble Apex Court reported in **(2019) 3 SCC 653 (State of Himachal Pradesh and another Vs. Shashi Kumar)** and would submit that it is necessary to bear in mind that compassionate appointment is an exception to the general Rule that appointment to any public post in the service of the State has to be made on the basis of principles which accord with Articles 14 and 16 of the Constitution. He would further submit that the dependants of a deceased employee of the State are made eligible by virtue of the policy on compassionate appointment. The basis of the policy is that it recognises that a family of a deceased employee may be placed in a position of financial hardship upon the untimely death of the employee while in service.

8.The learned counsel appearing for the second respondent would further submit that it is the immediacy of the need which furnishes the basis for the State to allow the benefit of compassionate appointment. Where the Authority finds that the financial and other circumstances of the family are such that in the absence of immediate assistance, it would be reduced to being indigent, an application from a

dependent member of the family could be considered. The terms on which such applications would be considered are subject to the policy which is framed by the State and must fulfil the terms of the policy. In that sense, it is a well-settled principle of law that there is no right to compassionate appointment.

9.The learned counsel appearing for the second respondent would further submit that in the present case, the petitioner family received a sum of Rs.26,98,036/- as terminal benefits of the deceased employee and hence, the petitioner family did not suffer any financial hardship. Hence, the impugned order was rightly passed by the first respondent. Accordingly, he prayed for dismissing the writ petition.

10.Heard the arguments advanced on either side and perused the materials available on record.

11.The facts in the present case is not disputed. The purpose of giving appointment on compassionate grounds is to provide immediate financial assistance to the family of a Government servant who dies in harness, when there is no other earning member in the family. The

object is to enable the family to get over sudden financial crisis and not to confer a status on the family. Thus, applicant cannot claim appointment in a particular class/group of post. Appointments on compassionate ground have to be made in accordance with the rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased.

12.In the present case, it appears that the petitioner family has received a sum of Rs.26,98,036/- as terminal benefits of the deceased employee and hence, the petitioner family did not suffer any financial hardship. Hence, this Court is not inclined to interfere with the impugned order.

13.The writ petition is accordingly dismissed. No costs.

30.11.2020

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

M.DHANDAPANI,J.
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To

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