

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 03.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.24525 of 2013
and
M.P.No.1 of 2013

Tmt.S.Bhavaneeswari

.. Petitioner

- Vs -

1. The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai 600 001.

2. The Secretary,
Chennai Port Trust,
Rajaji Salai,
Chennai 600 001.

.. Respondents

Writ petitions filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorified Mandamus, calling for the records of the 2nd respondent in his impugned proceeding No.SCT5/ 2719/2011/ GA dated 16.6.2012 and quash the same and consequently direct the respondents to forthwith appoint either the petitioner daughter S.Pavithra or her son S.Kamesh on compassionate ground according to their qualification.

For Petitioner : M/S.K.Raja

For Respondents: M/S.P.Saravanan, Standing Counsel

ORDER

This petition was filed by the petitioner to call for the records of the 2nd respondent in his impugned proceeding No.SCT5/ 2719/2011/ GA dated 16.6.2012 and quash the same and consequently direct the respondents to forthwith appoint either the petitioner daughter S.Pavithra or her son S.Kamesh on compassionate ground according to their qualification.

2.The case of the petitioner is that the petitioner's husband namely M.Sukumaran (deceased) was working as Winch Driver in Traffic Department in Chennai Port Trust; while in

service, he was died on 24.04.2006 leaving behind his mother, his sister who is deaf and dumb and his wife with two daughters and one son as his legal heirs. After his death the petitioner's family was in indigent circumstances and, therefore, the petitioner preferred a representation to the respondents on 10.08.2006 seeking compassionate appointment, for which she was assigned registration No. as D.R.No.17/2006 in the year 2006. However, the family has not been provided with any compassionate appointment till date. Thereafter the petitioner made several representations to the respondents in the year 2009. Finally the 2nd respondent herein, vide his impugned proceeding dated 16.06.2012 cancelled the petitioner's name from the register maintained for compassionate appointment and called upon her to accept lumpsum compensation in lieu of compassionate appointment which was declined by her owing to the reason that the compensation was very meagre with which the petitioner cannot maintain her family. In the above backdrop, the present petition has been filed.

3. Learned counsel appearing for the petitioner submitted that though the impugned order was passed based on the DOPT OM.NO.14014/19/2002-Estt.D. Dated 05.05.2003, as a matter of fact the said office memorandum was quashed by the learned Central Administrative Tribunal, Allahabad Bench, Allahabad vide its order dated 17.07.2009 and the same was confirmed by the Hon'ble Division Bench of Allahabad High Court in its order dated 07.05.2010 in Civil Miscellaneous Writ petition No.13102/2010. In view of the above said legal position, the office memorandum dated 05.05.2003 has lost its value on 17.07.2009 itself and, therefore, the impugned order dated 16.06.2012 cannot stand the test of judicial scrutiny as the said impugned order has lost its value and cannot be pressed into service. Hence this Court may issue a direction to the respondent to maintain the petitioner's original registration number and based on that original seniority, to consider the petitioner's daughter or son for compassionate appointment, which will be helpful in rehabilitating the family to eke out their livelihood.

4. Learned standing counsel appearing for the respondent, did not dispute the legal proceedings, averred by the learned counsel for the petitioner and submitted that the petitioner's compassionate appointment will be considered as per the existing office memorandum, as on the said date.

5. Heard both side submissions of the learned counsel on either side and perused the materials available on record.

6. In view of the fact that the issue relating to the impugned proceeding is no longer res integra, in view of the

decision of the Central Administrative Tribunal, Allahabad Bench, Allahabad, which has attained finality, this Court directs the respondents to restore the seniority of the petitioner to her original position as reflected in D.R.No.17/2006 and consider the case for compassionate appointment to the petitioner in accordance with law, within a period of three months from the date of receipt of copy of this order.

7.With the above direction, this writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai 600 001.

2. The Secretary,
Chennai Port Trust,
Rajaji Salai,
Chennai 600 001.

+1cc to Mr.K.Raja, Advocate, Sr.No.29050

सत्यमेव जयते

W.P. NO.24525/2013

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