

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.11.2020

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.6918 & 6919 of 2013

R..Kalavathy

..Petitioner in both WPs.

vs.

1. The Secretary to Tamil Nadu Government,
Home Department,
Secretariat, Chennai-600 009.
2. The Director General of Police,
Tamilnadu,
Mylapore, Chennai-600 004.
3. The Commissioner of Police,
Chennai City,
Egmore, Chennai 600 008.Respondents in both WPs.

Writ Petition in W.P.No.6918/2013, filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to provide settlement and pensionary benefits to the petitioner herein.

Writ Petition in W.P.No.6919/2013, filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to provide appointment to the petitioner or to her son on compassionate grounds.

In both WPs.

For Petitioner : M/S.P.Chandrasekar

For Respondent(s) : Mr.S.Thangavel, Spl.G.P.,

COMMON ORDER

As the relief sought for in the petitions are similar in nature, they are disposed of simultaneously.

2.It is the case of the petitioner that the petitioner's

husband, late R.Chander(P.C.No.6600) Grade I P.C. Was joined in the Chennai City Police as constable on 10.02.1997, during his service period he was served at various police stations in Chennai. While in service, he was removed from service on 22.10.1994 in Proceedings C.P.O.NO.3175/1994, subsequently he was ordered to be reinstated into service and order was issued for reinstatement in proceedings C.P.O.NO.4326/1995. Thereafter the petitioner's husband died during his service period, due to heart attack, however the petitioner made several representations, however till date the respondents not paid any retirement benefits to the petitioner as well as not granting any employment on compassionate grounds to her son, hence left with no other alternative, the petitioner has filed both Writ Petitions with the above said prayers.

3.Learned counsel for the Petitioner submitted that, admittedly the petitioner's husband was removed from service on the ground of desertion, subsequently he was reinstated, even thereafter the retirement benefits and job under compassionate ground were denied to the petitioner is unsustainable one. Learned Counsel further submitted that the petitioner's husband is no more, hence this Court may issue a direction to the respondents to pay the retirement benefits as well as compassionate appointment to the eligible person of the petitioner's family. Accordingly he prays for allowing these petitions.

4.Per contra, learned counsel appearing for the Respondents filed counter affidavit on behalf of respondents, denied the averments made by the petitioner, contented that the petitioner's husband was removed from service on 22.10.1994 and thereafter subsequent reinstatement order was issued, however even after the receipt of the order, the petitioner's husband did not join duty either at E.5 Pattinapakkam Police Station or at B.1 North Beach Police Station. Hence without joining in the post of many years, he died subsequently, therefore reinstatement was not effected accordingly. Learned counsel for the respondents further submitted that the petitioner's repeated representations were verified with the records of this office and she was not eligible for her claim in this Office memorandum Rc.No.Estt.2/137/37204/2007 dated 20.02.2008 and the same was communicated to the petitioner vide this Office letter in Rc.NO.Estt/Sourth.1.(2)83/6946/2009 stating that she is not eligible for an appointment on compassionate grounds. Though she has repeatedly submitting petitions for retirement benefits, which cannot revive or bestow upon. Accordingly prays for dismissal of the petition.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. This Court is of an opinion that consideration for appointment on compassionate ground is to be construed as violation of Articles 14 and 16 of the Constitution of India and is only in the nature of concession and therefore does not create a vested right in favour of the claimant. A compassionate appointment scheme is a non-statutory scheme and is in the form of a concession and it cannot be claimed as a matter of right by the claimant to be enforced through a writ proceeding. A compassionate appointment is justified when it is granted to provide immediate succor to the deceased employee. Mere death of a Government employee in his harness, it does not entitle the family to claim compassionate employment. The competent authority has to examine the financial condition of the family of the deceased employee and only if it is satisfied that without providing employment, the family will not be able to meet the crisis, that a job is to be offered to the eligible member of the family of the deceased employee.

7. In the present case, admittedly, due to continuous absent without joining duty, the petitioner's husband was removed from service on 22.10.1994 and he has not drawn nor was paid pay and allowances from August 1994. Though the petitioner claims that he was reinstated into service vide proceedings of C.P.O.No.4326/1995, during the year 2006, accordingly he was taken to police service and he was posted to B-1 North Beach Police Station as Grade I P.C, however the petitioner claims that subsequent to the order of dismissal, her husband was reinstated into service in another proceedings, unfortunately the petitioner does not have a copy of those proceedings, and on perusal of the counter affidavit filed by the respondents, in paragraph No.9, the Respondent has clearly stated that, the petitioner is not eligible for an appointment of compassionate grounds as well as granting terminal benefits to her with arrears accordingly, her both claims were rejected on 28.05.2009. Hence without challenging the said rejection order passed by the respondents, the Petitioner has come with the above Writ Petitions is not sufficient to grant the relief as sought for these petitions. Hence, this Court cannot interfere with impugned order passed by the respondents, accordingly, the relief sought for herein cannot be granted, therefore the Writ Petitions are liable to be dismissed. However, the Petitioner is at liberty to work out her remedy in the manner known to law with regard to two impugned orders passed by the respondents in this regard, are annexed in the counter affidavit filed by the respondents.,

8.Thus, in view of the foregoing reasons, these Writ Petitions stands dismissed as devoid of merits. However in the said circumstance, there shall be no order as to costs. However liberty is granted tot the petitioner to challenge the rejection order passed by the respondents, in the manner known to law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrs

To

1. The Secretary to Tamil Nadu Government,
Home Department,
Secretariat, Chennai-600 009.
2. The Director General of Police,
Tamilnadu,
Mylapore, Chennai-600 004.
3. The Commissioner of Police,
Chennai City,
Egmore, Chennai 600 008

+2cc's to M/S.P.Chandrasekar, Advocate, SR37064, SR37065
+1cc to The Government Pleader, SR37184

W.P.No.6918 & 6919 of 2013

CO(KJ)
BDL/30/12/2020

सत्यमेव जयते

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