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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

W.P.Nos.3314 & 3669 of 2021
and WMP.No.4195 of 2021

W.P.No.3314 of 2021

Gomathi

... Petitioner

..Vs..

1. The District Collector
District Collector Office,
Erode District.

2. The Revenue Tahsildar,
Modakuruchi
Erode District.

3. Sangeetha

... Respondents

Prayer in W.P.No.3314 of 2021:- This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to consider the compassionate appointment application dated 27.12.2019 in lieu of the proceedings in Na.Ka.2125/2020/A3 dated 03.08.2020 passed by the second respondent and as per G.O.18 dated 23.01.2020 passed by the Labour and Employment department.

W.P.No.3669 of 2021

Sangeetha

... Petitioner

..Vs..

1. The Additional Chief Secretary
Revenue and Disaster Management Department,
Fort St.George, Chennai 600 009.

2. The District Collector
District Collector Office,
Erode District.



3. The Tahsildar
Modakurichi Taluk,
Erode District 638 104.

4. V. Gomathi

... Respondents

Prayer in W.P.No.3669 of 2021:- This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 , 2 and 3 herein to provide suitable employment to the petitioner on compassionate grounds depending upon the petitioner's educational qualification within a reasonable time.

For Petitioners : Mr.M.Guruprasad
in W.P.No.3314 of 2021

Mr.G.Krishnakumar
in W.P.No.3669 of 2021

For Respondents : Mr.P.V.Selvakumar
Addl.Government Pleader
in both writ petitions

C O M M O N O R D E R

The writ petitioner in W.P.No.3314 of 2021 is the daughter of the deceased who died in harness and has sought for a public employment on compassionate ground. In the light of the proceedings in Na.Ka.2125/2020/A3 dated 03.08.2020 and also G.O.18 dated 23.01.2020 passed by the Labour and Employment department. Similarly the petitioner in W.P.No.3669 of 2021 who is the daughter-in-law of the deceased has approached this Court with a similar prayer.

2. Mr.P.V.Selvakumar, learned Additional Government Pleader takes notice for respondents in both writ petitions. By consent of both the parties, these writ petitions are taken up for final disposal at the admission stage itself.

3. Both the petitioners are seeking compassionate appointment on account of the demise of Arumugam. The daughter of the deceased, namely Gomathi contended that she has got the first right to get compassionate appointment on account of her father's demise while in service and that her sister-in-law Sangeetha will not be entitled to any rank.

4. Sangeetha who is the petitioner in W.P.No.3669 of 2021 stated that she is also having equal rights to demand compassionate appointment on the demise of her father-in-law as he died in harness. She further stated that her husband viz.,



son of the deceased Arumugam brother of Gomathi died on 05.03.2019 prior to her father-in-law's death on 17.02.2019. Though the respondent Government is willing to provide employment on compassionate ground to any one of the petitioners herein due to the dispute between the sister-in-laws, who are the petitioners herein, they would submit that they will abide by the decision of this Court.

5. At the time of hearing the matter, this Court suggested the counsel appearing for the petitioners as to why an amicable settlement could not be arrived at between the petitioners, taking note of the fact that Sangeetha lost her husband, who is the brother of Gomathi and that Gomathi should also show some compassion to her brother's wife and daughter.

6. When the matter is taken up for hearing, it is reported that after negotiation between the parties and as suggested by this Court, an amicable settlement has been arrived at between the parties and an affidavit of under taking has been filed by Gomathi in terms of settlement which reads as follows:-

" I. Gomathi, Wife of Velusamy, Hindu, Female aged about 31 years, residing at 46, Kullarangampalayam, Arachalur 'A' Village, Modakuruchi Taluk, Erode District do hereby solemnly affirm and sincerely state as follows.

1. I am the petitioner herein and I am well acquainted with the facts and circumstances of the case.
2. I submit that my father Late. Arumugam started working as a Village Assistant in the Arachalur 'A' Village from 06.07.1995 and he died on 17.10.219 during his service leaving my mother Vellaiyammal, myself, younger sister Dhanalakshmi and Sister-in-law Sangeetha and her daughter Minor Kayalvizhi as the legal heirs.
3. I submit that my sister Dhanalakshmi is married to one Ramachandran and is living her own life whereas my brother Karthi kumar predeceased my father in a road accident on 05.03.2019. I submit that I got separated from my husband due to difference in opinion and I am living with my mother for the past two years and I have two children namely Harishad aged 14 years and Shasmitha aged 12 years. After the demise of my father my whole family has collapsed and lost the main source of income.
4. I submit that I had approached the 1st respondent with a petition dated 27.12.2019 seeking compassionate appointment to the posting of Village Assistant in Arachalur 'A' Village, Modakuruchi. The 3rd respondent herein made objection to my application and she also claimed job. Though I am entitled to be considered for compassionate employment as per G.O.18 of Labour and



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employment department dated 23.01.2020 my application for compassionate was kept pending in view of the objection from the 3rd respondent.

5. Therefore I approached this Hon'ble Court by way of the writ petition in W.P.No.3314 of 2021 seeking for the compassionate employment as per G.O.18 of Labour and employment department dated 23.01.2020. This Hon'ble Court was pleased to order notice on 16.02.2021. The third respondent herein also filed a writ petition seeking for the relief of employment in W.P.No.3669 of 2021.
6. I respectfully state that both the writ petitions were heard by this Hon'ble Court and for the advancement of justice and taking into the account of the maintenance and education of my sister-in-law Sangeetha i.e., the 3rd respondent herein and her Minor Daughter Kayalvizhi aged 6 years, this Hon'ble Court was pleased to permit the respective parties to arrive at a solution.
7. I respectfully state that I am willing to take up the employment and I am undertaking to give 30% of the gross salary of every month to the 3rd respondent and her Minor Daughter Kayalvizhi and apart from that I undertake to pay a sum of Rs.20,000/- (Twenty Thousand Only) to the education of the Minor daughter Kayalvizhi every year on or before 31st of March of every year till the Minor Kayalvizhi attains Majority.

It is therefore most humbly prayed that this Hon'ble Court may be pleased to record my undertaking affidavit and pass orders as this Hon'ble Court may deem fit and proper to the facts and circumstances of the case and thereby render justice".

7. This Court, after going through the affidavit, is of the view that both the petitioners, who are ladies and are more concerned to purchase peace in the family and also about the education of the children, have arrived at a reasonable settlement and Gomathi has agreed to part with 30% of the Gross salary every month to Sangeetha and apart from that, she has also agreed to pay a sum of Rs.20,000/- for the education of the minor daughter Kayalvizhi of Sangeetha on or before 31st March of every year till she attains majority.

8. Taking note of the undertaking, these writ petitions are disposed of and the respondent Government is directed to provide compassionate appointment to Gomathi/petitioner in W.P.No.3314 of 2021. The connected employer/Department which is going to disburse the salary to Gomathi, can straight away deduct 30% of the gross income payable to Gomathi and credit it in the account of Sangeetha directly through NEFT or RTGS. This Court makes it very clear if it is a taxable income, the 30% will fetch



proportionate tax deduction, when the amount is credited to the account of Sangeetha.

9. Since Gomathi has been nominated by the wife of the deceased Arumugam and in terms of the undertaking, the respondent without standing on technicalities, more so, when there is a specific order by this Court shall provide compassionate appointment to Gomathi, preferably within a period of three months from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

dpq

1. The Additional Chief Secretary
Revenue and Disaster
Management Department
Fort.St.George, Chennai-9.
2. The District Collector
District Collector Office,
Erode District.
3. The Revenue Tahsildar,
Modakuruchi
Erode District.
4. The Tahsildar
Modakurichi Taluk,
Erode District 638 104.

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.17958

+1cc to the Government Pleader, S.R.No.17754,17753

W.P.Nos.3314 & 3669 of 2021
and WMP.No.4195 of 2021

RK(CO)
CB(16/07/2021)