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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 08.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.1587 of 2014

K.Muniammal

... Petitioner

Vs.

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

2. The Deputy Chairman,
Chennai Port Trust, Rajaji Salai,
Chennai 600 001.

3. Traffic Department,
Chennai Port Trust, Rajaji Salai,
Chennai 600 001.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari filed Mandamus to call for the records of the second respondent relating to the impugned proceeding in No.ICM3/16497/2007/S dated 05.12.2007 and quash the same and consequently direct the first and second respondents to pay the compensation amount in lieu of compassionate employment in view of the proceedings in Memo No.350/2000-A13 dated 20.06.2001, issued by the third respondent and pass orders.

For petitioner : Mr.B.Gopalakrishnan

For respondents : Mr.K.Arun Pradeesh for Port Trust

ORDER

This writ petition has been filed to quash the proceedings dated 05.12.2007 and direct the first and second respondents to pay the compensation amount in lieu of compassionate employment in view of the proceedings in Memo No.350/2000-A13 dated 20.06.2001, issued by the third respondent.

2. The case of the petitioner in brief:

The petitioner's husband was working as Mazdoor in Chennai Port Trust and he died on 10.06.1991. Her son



Arunachalam gave representation dated 19.09.1991 seeking compassionate appointment and the petitioner has also given consent for the same. But, the application was not considered till 1998 for providing compassionate appointment.

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2.1. Further, it was informed by the respondents that as per notification of the Traffic Department of Chennai Port Trust dated 20.06.2001, instead of getting job, the persons, who are in the waiting list in the Madras Dock Labour Board, can avail compensation upto Rs.1,20,000/-. According to the petitioner, her son's name finds place in the waiting list. However, on 05.12.2007, the second respondent had rejected her claim, stating that " the petitioner is aged about 48 years and hence, she is not eligible for compensation amount and his son is also not eligible for any compensation, since his claim is less than one year as on 31.12.2000, from the date of his application dated 29.05.2000". According to the petitioner, the reasons stated by the respondents are unsustainable. Her son applied for compassionate job as early as on 19.09.1991 itself and the respondents assigned DR No.270/1992 also. Again the petitioner gave representation to the respondents on 10.12.2007 to consider her claim for payment of compensation in lieu of compassionate appointment. But it was not considered. Hence this writ petition.

3. The learned counsel appearing for the respondents/Port Trust submitted that the petitioner has made application on 20.08.1992 seeking to provide appointment to her son K.Arunachalam on compassionate grounds. Subsequently, her son gave a letter dated 18.03.1998, stating that he did not want employment and recommended to give employment to his mother. Again on 29.05.2000, he gave another application to reconsider his application and sought to provide employment on compassionate ground to him and also opted to receive cash compensation in lieu of employment. The Port Trust had constituted a Committee to review the claims made by the dependants of the deceased employees for payment of compensation in lieu of employment, as per clause 29 of the Merger Settlement dated 25.05.2001. During August 2007, the petitioner had submitted representation seeking compassionate appointment.

4. According to the respondents, as per the Committee's report, it is clearly stated that " in respect of each case where the claim is preferred for more than one dependent i.e. wife, daughter and son as the case may be, the date of last claim preferred alone would be taken for reckoning commencement of the waiting period". Hence the committee had stated that " not recommended for any compensation". After detailed examination and in accordance with the guidelines framed for payment of one time lump sum compensation in lieu of compassionate appointment and also taking into consideration of the recommendation of the committee constituted for the said purpose, the claim of the petitioner



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was rejected and it was intimated vide letter dated 05.12.2007. Now, after lapse of 7 years, the petitioner has filed the present writ petition to quash the intimation letter dated 05.12.2007. Hence, the writ petition is not maintainable and the same is liable to be dismissed.

5. Heard the rival submissions made by the learned counsel appearing for both the parties and I have perused the materials on record.

6. According to the respondents, the Port Trust had constituted a Committee to review the claims made by the dependants of the deceased employees for payment of compensation in lieu of employment, as per clause 29 of the Merger Settlement dated 25.05.2001. The Committee had recorded that the petitioner had submitted an application on 20.08.1992 seeking appointment to her son K.Arunachalam on compassionate ground. Subsequently, her son K. Arunachalam gave a letter dated 18.03.1998, stating that he did not want employment and recommended to give employment to his mother. Again, the petitioner's son gave a letter on 29.05.2000, requesting to reconsider his application and sought to provide employment and also opted to receive cash compensation in lieu of employment. According to the respondents, the Committee in its report has recorded thus:

" in respect of each case where the claim is preferred for more than one dependent i.e. wife, daughter and son as the case may be, the date of last claim preferred alone would be taken for reckoning commencement of the waiting period".

Therefore, taking into account the last claim made by the petitioner's son K.Arunachalam dated 29.05.2000, the Committee had rejected his request stating as follows.

" As Smt. Muniammal is aged about 48 years, she is not eligible for compensation. Even if it is considered for employment based on the last date of application of Shri S.Arunachalam, he is not eligible for any compensation, since it is less than one year as on 31.12.2000 from the date of his application dated 29.05.2000".

7. The petitioner's son, who made the application for compassionate appointment and also opted to receive compensation amount in lieu of employment, has not filed the present writ petition challenging the above rejection order. But, his mother, the petitioner herein has challenged the above rejection order by filing this writ petition. It is pertinent to mention that already, the petitioner had submitted her application dated 20.08.1992 to provide compassionate appointment to her son. Further, this writ petition has been filed in the year 2014, challenging the order passed on 05.12.2007 and she has not stated any



satisfactory explanation for the delay in preferring the writ petition.

8. As already discussed, the petitioner herself had given application seeking appointment to her son on compassionate ground and also compensation in lieu of appointment, now, she cannot challenge the intimate letter passed by the respondent dated 05.12.2007. Hence, this writ petition cannot be entertained and the same is liable to be dismissed.

9. Accordingly, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

mst

To

1. The Chairman,
Chennai Port Trust, Rajaji Salai,
Chennai 600 001.
2. The Deputy Chairman,
Chennai Port Trust, Rajaji Salai,
Chennai 600 001.
3. Traffic Department,
Chennai Port Trust, Rajaji Salai,
Chennai 600 001.

+1cc to Mr.R.P.Pannerselvam, Advocate SR.No.65049

+1cc to Mr.AAV Partners, Advocate SR.No.65613

W.P.Nos.1587 of 2014

RSI(CO)
GMY(27/01/2022)