



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

CORAM

The Hon'ble Mr. Justice C.SARAVANAN

Writ Petition No.23526 of 2021  
and  
W.M.P.24749 of 2021

(Through Video Conferencing)

A.Velvizhi

... Petitioner

Vs.

- 1.The Registrar of Co-operative Societies.  
N.V.M. Maligai,  
Kilpauk, Chennai-600 010.
- 2.The Zonal Joint Registrar of Co-operative Societies,  
Villupuram Division,  
Villupuram .
- 3.The Deputy Registrar of Co-operative Societies,  
Tindivanam,  
Villupuram.
- 4.The Special Officer,  
C.L.Spl.88, Nallathur Primary Agricultural  
Co-operative Bank Ltd.,  
Nallathur Post, Tindivanam Taluk,  
Villupuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 3<sup>rd</sup> respondent in Na.Ka.No.58/2021/CC(2), dated 01.06.2021 quash the same and accordingly direct the Respondents to regularize the services of the Petitioners deceased sister A.Mandira Mozhi with effect from 02.05.1995 as per G.O.Ms.No.86, dated 12.03.2001 by following the Judgment of this Court in W.P.No.21440 of 2015 etc., batch dated 19.02.2021 and consequently direct the Respondents to consider the claim of the Petitioner for compassionate appointment and accordingly grant her compassionate appointment in line with her educational qualification within a time frame to be fixed by this Court.



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For Petitioner : M/s.A.Pramila  
for Mr.P.Nethaji

For Respondents : Mr.L.S.M.Hasan Fizal  
Govt. Advocate for R1 to R3.

Mr. Mohammed Sathik for R4.

#### O R D E R

The Petitioner has filed this writ petition for a writ of certiorarified mandamus to call for records of the 3<sup>rd</sup> respondent bearing reference in Na.Ka.No.58/2021/CC(2), dated 01.06.2021 and for the consequential direction to the Respondents to pass appropriate orders for appointing the Petitioner on compassionate grounds on account of her sister's death.

2. It is the case of the Petitioner that the Petitioner's sister Selvi.A.Mandira Mozhi was appointed with the 4<sup>th</sup> Respondent Co-Operative Bank as an Assistant with effect from 02.05.1995 on daily wage basis and that within three years of her employment she died on 06.03.1998, the Petitioner's sister died when being permanently absorbed in service. It is submitted that the Petitioner was aged about 18 years at that point of time and had sent a representation for appointing the Petitioner on compassionate ground considering the fact that the Petitioner's sister would have been entitled to the benefit of G.O.Ms.No.86 dated 12.03.2001.

3. The learned counsel for the Petitioner further submits that the Petitioner had also filed a writ petition before this Court in W.P.No.31492 of 2002 which came to be disposed by an order dated 31.07.2002 with the following observation:-

'2. Today, when the above matter was taken up for consideration and upon hearing the learned counsel for both, this Court is of the view that absolutely no reason seems to exist to delay the appointment of the petitioner on compassionate grounds, in spite of the petitioner having made the representation for seeking appointment as early as on 20/4/1998 itself, which is unexplained and unreasonable on the part of the authorities concerned. Therefore, it is high time that the third respondent considered the representation of the petitioner for appointment on compassionate grounds in the third respondent bank in a time bound manner which will serve the ends of justice.

In result,



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(i) the third respondent is hereby directed to consider the representation of the petitioner which will be made in 30 days from now for her appointment in the third respondent Bank on compassionate grounds and pass order on merits and in accordance with law and with due opportunity for the petitioner to be heard, so as to dispose of the same within eight weeks from the date of receipt of a copy of this order.''

4. The learned counsel for the Petitioner further submits that though the above said order was passed as early as 31.07.2002, the Respondents did not take any steps for appointing the Petitioner on compassionate ground. Now the impugned order has been passed rejecting the request of the Petitioner stating that more than 23 years have been lapsed since the death of the Petitioner's sister. The learned counsel for the Petitioner placed reliance on the decision of this Court rendered in the following cases:

1) G.Ashokan vs, The District Collector, Thiruvannamalai District, Thiruvannamalai in W.A.No.413 of 2013 vide order dated 22.04.2014.

2) The Secretary to Government and others vs. M.Karuppan and another in W.A.No.1062 of 2017 vide order dated 15.09.2017.

3) A.Selvakumar vs. The Secretary to Government, Food Co-Operative & Consumer Protection Department, Fort St. George, Chennai -9 in W.P.No.21440 of 2020 batch etc. vide order dated 19.02.2021.

The learned counsel for the Petitioner submits that the scope of G.O.Ms.No.86, Co-operative Food and Consumer Protection (CA2) Department dated 12.03.2001 was also considered in W.A.No.413 of 2013, it is submitted that the Petitioner is entitled for employment on compassionate ground considering the fact that the family still continues to remain in indigent circumstances.

5. Appearing on behalf of the Respondents, the learned Government Advocate, submits that this writ petition is belated and is liable to be dismissed on account of the laches. The learned Government Advocate further submits that the appointment of the Petitioner at the belated stage cannot be considered considering the fact that the Respondents have now issued a consolidated Government orders in G.O.Ms.No.18 dated 23.01.2020. The learned Government Advocate further submits that the purpose of appointing a person on compassionate ground would arise only where the family is in indigent circumstances and considering the fact that the Petitioner's sister died as early as 06.03.1998, the question of giving indulgence at this point of time does not arise.



6. Heard the learned counsel for the Petitioner and the learned counsel for the Respondents 1 to 3 and perused the impugned orders and the decisions cited by the learned counsel for the Petitioner.

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7. It is noticed that the Petitioner has also already filed a writ petition in W.P.No.31492 of 2002 on an earlier occasion which came to be disposed on 31.07.2002. Even on that day, the Single Judge of this Court has noted that there is a unexplained and unreasonable delay on the part of the authority concerned. The impugned order has been now passed after a lapse of another 19 years. The Hon'ble Supreme Court in Indian Bank vs. Promila and Another (2020) 2 SCC 729 has held that the appointment on compassionate ground has to be made in terms of the Government orders prevailing on the date of application. Considering the fact that the Hon'ble Supreme Court has held that the appointment on compassionate ground should be in terms of the prevailing Government order which rules as on the date of the application, this writ petition is disposed of by directing the Respondents to pass appropriate orders for appointing the Petitioner in terms of the prevailing Government orders in 1998. In case the Petitioner was entitled to be appointed in the year 1998 at the time when the initial application/representation sent for appointment, the Respondents shall appoint the Petitioner on compassionate ground. It is also made clear that the Respondents shall before appointing the petitioner as compassionate ground shall also be examine whether the family of the Petitioner was indeed in indigent circumstances. The said exercise shall be carried out by the Respondents within a period of six months from the date of receipt of a copy of this order. It is made clear that since the Petitioner's sister already passed away on 06.03.1998, the service of the Petitioner's sister shall be deemed to have been regularized in terms of G.O.Ms.No.86 dated 12.03.2001 for the limited purpose of considering the request of the Petitioner on compassionate ground.

8. This writ petition is disposed with the above directions. No costs. Consequently, connected WMP is closed.

Sd/-  
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Registrar of Co-operative Societies.

N.V.M. Maligai,  
Kilpauk, Chennai-600 010.

2.The Zonal Joint Registrar of Co-operative Societies,  
Villupuram Division,  
Villupuram .

3.The Deputy Registrar of Co-operative Societies,  
Tindivanam,  
Villupuram.

4.The Special Officer,  
C.L.Spl.88, Nallathur Primary Agricultural  
Co-operative Bank Ltd.,  
Nallathur Post,  
Tindivanam Taluk,  
Villupuram District.

+1cc to the Government Pleader Sr No.56635

+1cc to Mr.P.Nethaji, Advocate Sr No.56147

W.P.No.23526 of 2021

NRJK (CO)

PR (15/11/2021)