IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2021

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.NO.6607 OF 2017

Mrs.R.Vanitha ...Petitioner

..Vs..

1. The The Tahsildar,
   Egmore Taluk,
   Chennai District.

2. The Revenue Divisional Officer,
   Egmore Taluk,
   Chennai District. ...Respondents

PRAYER :

Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent in his letter number E5/8822/2016 dated 17.11.2016, quash the same and consequently, direct the respondents to issue the Destitute Widow Certificate to the petitioner within a period that may be fixed by this Court.

For Petitioner : Mr.M.A.R.Pragash

For Respondents : Mr.K.M.D.Muhilan, Government Advocate

O R D E R

This Writ Petition has been filed, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent in his letter number E5/8822/2016 dated 17.11.2016, quash the same and consequently, direct the respondents to issue the Destitute Widow Certificate to the petitioner within a period that may be fixed by this Court.

2. According to the petitioner, she is a poor destitute widow, since her husband died on 24.09.2011, leaving behind her and two minor sons. The grievance of the petitioner is that, after demise of her husband, she and her minor sons were neglected by her mother-in-law and her relatives and she finds difficulty to eke out her and her sons livelihood and she used to work in a hotel as and when she is called upon to work. In such circumstances, the petitioner made a representation dated 05.02.2016 along with relevant documents, to the 1st respondent to issue 'destitute widow' certificate so as to enable her to apply for appointment in Government service by availing special consideration as per G.O.Ms.No.395, dated 4.11.1993 to carry out her life with her two minor children without difficulties, but, despite the representation and personal requests made by the petitioner, no action was forthcoming from the 1st respondent. Later, the 2nd respondent conducted an enquiry without giving an opportunity to the petitioner and by proceedings dated 17.11.2016, the petitioner was informed by the 1st respondent that her application was rejected on the ground that she was staying with her mother-in-law and others and also earning Rs.6000/- by working in a hotel. Challenging the said proceedings, the petitioner has come forward with the present Writ Petition.

3. The learned counsel appearing for the petitioner would submit that admittedly, the petitioner is a destitute widow, living along with her two minor sons, without any support, the 2nd respondent, without conducting the enquiry properly, observed that, as if, the petitioner was working and earning Rs.6000/- and living with her mother-in-law and thereby, the 1st respondent, by impugned proceedings, rejected the application of the petitioner, which cannot be sustained and liable to be quashed. The petitioner often used to work in a hotel to sustain herself and her two sons as and when she is called upon to work and this does not mean that she is permanently working in hotel and earning and that would be sufficient to maintain herself and her two sons. Therefore, the learned counsel for the petitioner sought for a direction to the respondents to issue destitute widow certificate to the petitioner by setting aside the impugned proceedings.

4. The learned Government Advocate appearing for the respondents would submit that, during enquiry, since it is brought to the notice of the respondents that the petitioner was earning Rs.6000/- per month by working at Rajbhavan hotel and living with her relatives and residing in a house belonging to her mother-in-law, the application has been rightly rejected and hence, there is no infirmity in the impugned order, warranting interference of this Court. He also produced a copy of the Government Order in G.O.Ms.No.89, dated 5.7.2008, wherein, the

term 'destitute widow' is defined as a widow, whose total monthly income from all sources is not more than 4000/-. He pointed out that, in earlier G.O.Ms.No.395, dated 4.11.1993, it was prescribed Rs.1000/- subsequently, it is enhanced to Rs.4000/-, the above said G.O.Ms.No.89, dated 5.7.2008 was issued and since the petitioner was earning Rs.6000/-, i.e. beyond the limit prescribed in the above G.O., the petitioner cannot be considered as 'destitute widow' and hence, her application has been rightly rejected.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the materials available on record.

6. It is not in dispute that the petitioner is a widow since her husband died on 24.09.2011. The reasons assigned for rejection of the application of the petitioner for grant of destitute widow certificate in the impugned proceedings dated 17.11.2016 are that the petitioner was earning Rs.6000/- per month by working in Rajbhavan hotel and living with her relatives, and that, she was residing in a house belonging to her mother-in-law.

6.1 The Government of Tamil Nadu, vide G.O.Ms.No.395 dated 4.11.1993, issued clarification as regards the definition of term 'destitute widow', as under:

> Definition of "Destitute Widow":
>
> “The term "destitute widow"is hereby defined as a widow whose total monthly income from all sources is not more than Rs.1,000/- (Rupees One thousand only) including any family pension or other receipts including income from private practice in the case of professionals. A divorcee will not, however, be treated as a "widow".

6.2 Subsequently, the Government vide G.O.Ms.No.89, dated 5.7.2008, issued revised instructions, enhancing the total monthly income limit prescribed for destitute widow from Rs.1000/- to 4000/-.

6.3 Based upon the above said subsequent G.O., dated 05.07.2006, the respondents rejected the claim of the petitioner for grant of 'Destitute Widow Certificate' stating that the petitioner was working in a hotel and earning at Rs.6000/- per month.

6.4 It is the specific case of the petitioner that she is a destitute widow living without any support from anybody along with her two minor sons, and to sustain herself and her two sons, she used to work in a hotel only as and when called upon for work but not on a permanent basis, and thereby, earning only a meager income not exceeding Rs.3,500/- per month. The respondents have not relied upon any statement of the owner of the hotel or any document issued by hotel, certifying that the petitioner was working and earning Rs.6000/- per month.

6.5 Therefore, based on surmises and conjectures, the 1st respondent issued impugned proceedings, as if, the petitioner was earning at Rs.6000/- per month. It is not in dispute that the petitioner is not having any source of income and only with meagre means by way of daily work, she is looking after her day-to-day needs as well as her two minor sons, and as such, even assuming that she is earning Rs.6000/- per month, it is not sufficient for three persons.

6.6. It is pertinent to note that the G.O.Ms.No.89 enhancing the monthly income limit from 1000/- to 4000/- was issued in the year 2006 and the rejection order was passed in the year 2016 based on the said G.O. holding that the petitioner was earning Rs.6000/- per month and thereby, she would not come within the definition of 'destitute widow', in the opinion of this Court, cannot be sustained for more than one reason. Firstly, in the year 2006, the monthly income limit was enhanced to Rs.4000/- vide G.O.Ms.No.89, dated 5.7.2006. It is not brought to the notice of this Court, as to whether any G.O. subsequent to the above G.O. was issued enhancing the income limit from Rs.6000/-. The rise in the cost of living has been increasing day by day, affecting everyone across the board and it does not make any distinction between rich and poor. As a matter of fact, the effect of rise in prices, which directly impacts the cost of living is minimal on the rich and maximum on those who are self-employed or who get fixed income/emoluments. They are the worst affected people. Therefore, they put extra efforts to generate additional income necessary for sustaining their families.

6.7. It is to be noted that the salaries of those employed under the Central and State Governments and their agencies/instrumentalities have been revised from time to time to provide a cushion against the rising prices, while the rise in the salaries of the self-employed and fixed wagers, coolies, etc., would be depending upon the discretion of their employers. In the present case, the income limit at Rs.1000/- was initially fixed in the year 1993 and nearly after 13 years, it was enhanced to Rs.4000/- in the year 2006 and thereafter, till date despite lapse of nearly 10 years, there was no enhancement. Taking note of the hike in prices of all commodities which deteriorates the cost of living, the Government ought to have increased the monthly income limit appropriately. In such circumstances, there is no justification on the part of the respondents to rely upon the G.O.Ms.No.89, which was issued 10 years back and hold that the petitioner was earning more than 6000/- per month, i.e. more than the income limit of Rs.4000/- prescribed in G.O.Ms.No.89 dated 5.7.2006 and thereby, rejecting the request of the petitioner for issuance of Destitute Widow Certificate.

6.8. Therefore, this Court is inclined to arrive at appropriate monthly income limit based upon the Cost Inflation Index pertaining to the concerned financial year. In this regard, the inflation index published by the Central Board of Direct Taxation for the purpose of calculating the income has to be taken note of. The following Table indicates the Cost Inflation Index from the present financial year 2021-22.

| Financial Year | Cost Inflation Index |
|---|---|
| 2021-22 | 317 |
| 2020-21 | 301 |
| 2019-20 | 289 |
| 2018-19 | 280 |
| 2017-18 | 272 |
| 2016-17 | 264 |
| 2015-16 | 254 |
| 2014-15 | 240 |
| 2013-14 | 220 |
| 2012-13 | 200 |
| 2011-12 | 184 |
| 2010-11 | 167 |
| 2009-10 | 148 |
| 2008-09 | 137 |
| 2007-08 | 129 |
| 2006-07 | 122 |
| 2005-06 | 117 |
| 2004-05 | 113 |
| 2003-04 | 109 |
| 2002-03 | 105 |
| 2001-02 | 100 |

6.9. As per the above said index, the cost of inflation index for the year 2006-2007 was 122 during which year, the income limit fixed in respect of destitute widow was 4000/- p.m. While so, for the year 2016-17, the inflation index is 264, and therefore, the income limit in respect of destitute widow, can be fixed in the following method:

$$\text{Monthly income limit fixed in G.O.Ms.No.89, dt. 05.07.2006} \times \frac{\text{Cost Inflation Index for the year 2016-17}}{\text{Cost Inflation Index for the year 2006-2007}}$$

(i.e.) Rs.4000 x 264/122 = Rs.8655/-, rounded off to Rs.8700/-

6.10. As already stated above, the G.O.Ms.No.89, dated 5.7.2006 has clarified that the term "destitute widow" as a widow, whose total monthly income from all sources is not more than Rs.4000/- in the year 2006. The impugned order was passed in the year 2016 (i.e.17.11.2016) and as per the above calculation, this Court feels it appropriate to define a 'destitute widow' whose total monthly income from all sources is not more than Rs.8,700/-. Therefore, the petitioner cannot be denied to be considered her as destitute widow even assuming that she was earning Rs.6000/- p.m. in the year 2016. In fact, one side both the Central and State Governments are taking enough initiative steps to promote women empowerment by introducing different schemes and policies. While so, it is very unfortunate to note that even for issuance of a destitute widow certificate to the petitioner, who lost her husband at young age and struggling to maintain herself and her two minor sons, the respondents acted in a stringent manner and denied the same to her, which necessitated her to approach this Court and in the mean time, five years have lapsed.

7. In the light of the above, the impugned order passed by the 1st respondent dated 17.11.2016 is hereby set aside and the respondents are directed to issue 'destitute widow certificate' to the petitioner without any further delay, preferably, within a period of four weeks from the date of receipt of a copy of this order.

8. The Writ Petition is allowed accordingly. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

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Sub Assistant Registrar

To

1. The The Tahsildar,
   Egmore Taluk,
   Chennai District.

2. The Revenue Divisional Officer,
   Egmore Taluk,
   Chennai District.

+1cc to Mr.M.A.R.Pragash, Advocate, S.R.No.62075

+1cc to Mr.M.A.R.Pragash, Advocate, S.R.No.2451 [26/04/2022]

+1cc to the Government Pleader, S.R.No.62233

W.P.No.6607 of 2017

GPL(CO)
PM/11/02/2022