



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.[MD]No.954 of 2021

against

WP(MD)No.14455 of 2017

M.V.Manopriya

: Appellant/Petitioner

Vs.

1.The Director of School Education,
Chennai - 6.

2.The District Educational Officer,
Nagercoil District,
Nagercoil.

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 20.01.2021, in W.P.[MD]No.14455 of 2017 and allow the writ appeal.

PRAYER IN WP(MD) . 14455 OF 2017 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of certiorified mandamus to call for the records pursuant to the impugned order of the 2nd respondent dated 08.06.2017 in NI.MU.No.6195/A1/2012 and quash the same and consequently direct the respondents herein to provide compassionate appointment to the petitioner, without reference to marriage of the petitioner.

For Appellants : Mrs.Porkodi Karnan
for M/s.Polax Legal Solutions
For Respondents : Mr.R.Baskaran,
Standing Counsel for Government

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

With the consent on either side, this Writ Appeal is taken up



for final disposal.

2.Heard Mrs.Porkodi Karnan for M/s.Polax Legal Solutions, learned Counsel appearing for the appellant and Mr.R.Baskaran, learned Standing Counsel for Government appearing for the respondents.

3.This appeal is directed against the order dated 20.01.2021, in W.P.[MD]No.14455 of 2017. The said writ petition was filed by the appellant challenging the order passed by the second respondent dated 08.06.2017, rejecting her application for grant of appointment on compassionate grounds.

4.The appellant's father Mr.K.Murugan, was working as a Tamil Pandit in a Government School, coming under the control of the second respondent and had put in more than 30 years of service and died in harness on 01.08.2007, leaving behind the appellant's mother and her elder sister and the appellant as three legal heirs. The appellant has submitted an application dated 22.11.2007, for grant of appointment to her on compassionate ground. When the application was pending, the appellant was given in marriage to Mr.G.Prabhu Sankara Narayanan, in the year 2011. The application submitted by the appellant during 2007 was rejected by an order dated 08.06.2017, which was impugned in the writ petition.

5.The order impugned in the writ petition rejects the claim of the appellant, primarily for the reason that she is well qualified having acquired a Post Graduate qualification with B.Ed., and M.Phil., and that her husband is an Engineer with Post Graduate qualification and working in a private Engineering College. There is also a reference to the status of the appellant's sister, who is also given in marriage.

6.The argument of the learned Counsel for the appellant is that the second respondent has not assigned any reasons for keeping the application for grant of appointment on compassionate ground pending for more than 10 years and rejecting the said application for the reasons and circumstances prevailing in 2017 is not tenable and what was required to be considered is whether the appellant was eligible to be considered for appointment on compassionate ground when she submitted her application ie., in the year 2007.

7.The learned Single Bench had dismissed the writ petition. In fact, certain of the observations made by the learned Single Bench is correct, in the sense that there is no vested right for an individual to claim appointment and it is granted on the extant and policy of the employer. The learned Single Bench also proceeded on the basis of the subsequent events, namely, the marriage of the



appellant, her qualification and found that the order impugned in the writ petition does not call for interference.

8. Though we agree with certain observations made by the learned Single Bench, we are of the view that the aspect as to why the second respondent had kept the application for compassionate ground appointment pending for more than 10 years has not been considered, more particularly, the second respondent having not given any satisfactory explanation for the same. Very often, the department rejects applications for grant of compassionate appointment on the ground of delay and laches. If that is so, the same principle can be very well applied to the department, when they keep the application pending for more than a decade. So far as the marital status of the appellant is concerned, that may not be a sole reason to deny consideration of the application for grant of appointment on compassionate ground. It may be true that the appellant is well qualified, that by itself would not guarantee that she has independent source of income.

9. Learned Counsel for the appellant submits that though the appellant's husband has Post Graduate qualification in Engineering, he is unemployed for three [3] years and the family is still in indigent circumstances and the appellant's mother is taken care of by the appellant.

10. Considering these facts, we are of the view that the second respondent should re-consider the application filed by the appellant after examining as to the financial status of the appellant and her family for which appropriate report should be called through the jurisdictional Tahsildar, who should submit a report after conducting a discrete enquiry with regard to the financial status of the appellant.

11. For the above reasons, we are inclined to interfere with the order passed in the writ petition. Accordingly, the Writ Appeal is allowed and the order passed in the writ petition in W.P.[MD] No.14455 of 2017 dated 20.01.2021 is set aside. Consequently, the order impugned in the writ petition is set aside and the matter is remitted to the second respondent with the following direction:

"The second respondent is directed to address the jurisdictional Tahsildar, to conduct a discrete enquiry as regards the financial status and other related circumstances of the appellant and her family and submit a report to the second respondent and based on the said report, the second respondent shall pass fresh orders on merits and in accordance with law."



The above direction be complied with within a reasonable time, not later than four [4] months from the date of receipt of a copy of this judgment. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR/RM

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Director of School Education,
Chennai - 6.
- 2.The District Educational Officer,
Nagercoil District,
Nagercoil.

W.A. [MD]No.954 of 2021
01.06.2021

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