



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.8058 of 2021

and

W.M.P (MD)Nos.6153 & 6155 of 2021

WEB COPY

S.Sheeba Priyadharsini

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai-600 009.
2. The Director of School Education,
College Road, Chennai-600 006.
3. The Joint Director of School Education,
Department of School Education,
College Road, Chennai-600 006.
4. The Chief Educational Officer,
Virudhunagar District.
5. The District Educational Officer,
Virudhunagar District.
6. The Headmistress,
Government Higher Secondary School,
Naduvapatti,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the fourth respondent Chief Educational Officer in Mu.Mu.No.5586/A1/2018, dated 20.11.2020 and quash the same and further direct the respondents to provide a suitable employment to the petitioner on compassionate ground.

For Petitioner	:	Mr.K.Ragatheesh Kumar for M/s.Isaac Chambers
For R1 to R5	:	Mr.P.Subbaraj Government Advocate

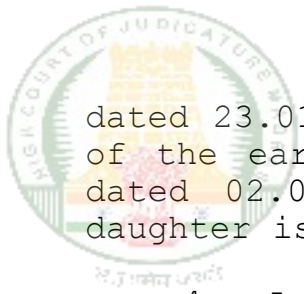


ORDER

The petitioner has come out with present writ petition to quash the impugned order, dated 20.11.2020, passed by the fourth respondent in Mu.Mu.No.5586/A1/2018 and further direct the respondents to provide a suitable employment to the petitioner on compassionate ground.

2. According to the petitioner, her mother Mrs.K.John Britto died on 21.11.2009, while in service as Teacher, leaving behind her husband, son and the petitioner, as her legal heirs. On 02.03.2012, the petitioner gave an application to the fourth respondent for appointment on compassionate ground. The sixth respondent School also submitted a proposal to the fifth respondent for compassionate appointment of the petitioner. The fifth respondent, vide proceedings, dated 27.12.2012, rejected the proposal seeking certain particulars. The petitioner furnished all the particulars sought for by the fifth respondent. The fifth respondent on satisfying with the same, forwarded the proposal to the fourth respondent on 19.02.2013 recommending the petitioner for appointment on compassionate ground. But, no action was taken for more than six years. While so, the petitioner got married in the year 2014. She lost her husband and child in a road accident occurred on 02.10.2016 and now, petitioner is living separately in her husband's house and in such circumstances, she requested the respondents to consider her application for appointment on compassionate ground. By proceedings, dated 16.05.2019, the fourth respondent forwarded the proposal to the third respondent along with recommendation for appointment of the petitioner on compassionate ground. The third respondent also directed the fourth respondent to submit the attested copies of the documents and certificates in favour of the petitioner. The fourth respondent, by the proceedings, dated 09.02.2020, submitted the same to the third respondent. While so, the fourth respondent rejected the request of the petitioner, by the impugned order, dated 20.11.2020. Challenging the said order, the petitioner has come out with the present writ petition.

3. The learned counsel appearing for the petitioner submitted that the act of the fourth respondent rejecting the request of the petitioner is arbitrary. The fourth respondent failed to consider that the petitioner is a widowed daughter of the deceased employee and she is residing separately in her husband's house. At the time of death of her mother, her brother was not employed and he has given consent for the petitioner, being appointed on compassionate ground. The fourth respondent erroneously took into consideration the pension received by her father and income of her brother, who is working now in a private company, rejected the request of the petitioner. The learned counsel appearing for the petitioner referred to G.O(Ms)No.18, Labour and Employment (Q1) Department,



dated 23.01.2020, which is issued by the Department in supersession of the earlier G.O(Ms)No.998 of Labour and Employment Department, dated 02.05.1981, wherein, it has been stated that the widowed daughter is eligible for appointment on compassionate ground.

4. Learned counsel appearing for the petitioner further submitted that the petitioner is not receiving any help from her father and her brother and therefore, she is eligible for being appointed on compassionate ground. As per G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the family pension of the deceased employee need not be taken into account while assessing the income of the family. That being so, the act of the respondents to include the pension of the deceased employee while determining the indigent circumstances of the family is erroneous. In support of his case, the learned counsel appearing for the petitioner relied on the order of the Division Bench of this Court, dated 15.06.2017, in W.A(MD)No.695 of 2017 [The District Educational Officer and another vs. P.Suresh].

5. Mr.P.Subbaraj, learned Government Advocate appearing for the respondents submitted that the respondents considered the application of the petitioner for compassionate appointment on merits taking into account all the materials and documents produced by the petitioner. On enquiry, it was found that the petitioner's father getting pension of Rs.40,099/- and family pension of Rs.22,897/- on the death of his wife. In addition to this, the petitioner's brother working in REPCO Bank, Rajapalayam and getting income. In such circumstances, the petitioner is not an indigent person and the impugned order is valid and prayed for dismissal of the writ petition.

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

7. From the above materials on record, it is seen that the petitioner's mother died on 21.11.2009 while she was in service. The petitioner gave an application on 02.03.2012 for appointing her on compassionate ground within three years from the date of death of her mother. The fifth respondent sought certain particulars. The petitioner furnished all the required particulars and documents. The fifth respondent forwarded the proposal to the fourth respondent. The fourth respondent has not taken any action for six years. On 16.05.2019, the fourth respondent forwarded the proposal to the third respondent along with the recommendation for appointment of the petitioner on compassionate ground. The fourth respondent by the proceedings, dated 09.09.2020 submitted the attested copies of the documents and certificates of the petitioner to the third respondent, as per his direction. After such recommendation, the fourth respondent, by the impugned order, rejected the request of the petitioner for appointment on



8. From the impugned order, it is seen that the application made by the petitioner in the year 2012 was rejected in the year 2020. Even though, the petitioner has submitted all the required documents in the year 2012 itself and the fourth respondent recommended the petitioner for appointment on compassionate ground, no action was taken on the application and proposal till 2019. The respondents failed to consider that on the date of death of the mother of the petitioner, brother of the petitioner was not employed and he has given No Objection Certificate to the petitioner for being applied on compassionate ground. The respondents also not taken into account the representation of the petitioner that she was married in the year 2014. Her husband and child died on 02.10.2016 in the road accident and now, she is living separately in her husband's house and the petitioner's father and brother are not financially supporting her. A perusal of the Government Order shows the list of following persons, who are eligible to be considered for appointment on compassionate ground.

"(i) Son/Unmarried Daughter/Wife/Husband/legally adopted son/legally Unmarried adopted daughter/widowed daughter/ divorced daughter/deserted daughter of the deceased Governemnt servant.

(ii) Father/Mother and unmarried brothers and unmarried sisters of the unmarried deceased Government Servants.

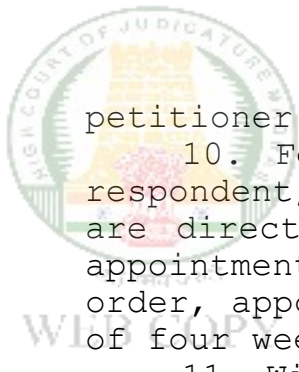
(iii)Married daughter of the deceased Government Servant who is otherwise eligible.

(iv) If any person, in the deceased Government Servant's family was employed even before the death of the Government Servant but was living separately without extending any help to the family, then the case of other eligible dependant will be considered.

(v) If any dependant/dependants of deceased Government Servant is/are employed in Military Service, one of the other dependents is eligible for appointment under compassionate ground.

(vi) If any member of the deceased Government Servant's family is working on Temporary/ Part time basis such as noon-meal organizer and helpers, and those who work on daily wages, the other dependents of the family may be considered for providing appointment."

9. The respondents without properly appreciating the above facts and G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, after 8 years of submission of application seeking compassionate appointment, rejected the application of the petitioner. The respondents have not considered the financial condition of the petitioner at the time of death of her mother, at the time of submitting the application on compassionate ground and subsequent representation after the death of her husband and child. The order of Division Bench of this Court, dated 15.06.2017 in W.A (MD)No.695 of 2017 relied on by the learned counsel for the



petitioner is squarely applicable to the facts of the present case.

10. For the above reasons, the impugned order of the fourth respondent, dated 20.11.2020 is set aside. The respondents 1 to 5 are directed to consider the representation of the petitioner for appointment on compassionate ground favourably and issue appointment order, appointing the petitioner in a suitable post, within a period of four weeks from the date of receipt of a copy of this order.

11. With the above directions, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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/ /2021

Sub Assistant Registrar(CS)

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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 Secretary,
Department of School Education,
Fort St. George, Chennai-600 009.
2. The Director of School Education,
College Road, Chennai-600 006.
3. The Joint Director of School Education,
Department of School Education,
College Road, Chennai-600 006.
4. The Chief Educational Officer,
Virudhunagar District.
5. The District Educational Officer,
Virudhunagar District.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-21474[F] dated 07/07/2021)
+1 CC to M/s.SPL GP (SR-21553[F] dated 07/07/2021)

W.P. (MD)No.8058 of 2021
06.07.2021

RC (20.07.2021) 5P-8C

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