



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 09.07.2021**

**CORAM:**

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

**W.P (MD)No.8688 of 2021**

WEB COPY

1.K.Chellammal

2.Karna Kumar

... Petitioners

vs.

1.The Superintendent of Police,  
O/o.District Police Office,  
Theni District,Theni.

2.The Inspector of Police,  
Gudalur, Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating with the order of the first respondent made in Na.Ka.No.A4/173/3294/2014, dated 08.09.2020 and quash the same as it is arbitrary and illegal and in consequence to direct the first respondent to give the compassionate appointment to the second petitioner.

For Petitioners

: Mr.S.Saravana Kumar

For Respondents

: Mr.K.S.Selva Ganesan

Government Advocate

### **ORDER**

The petitioners have filed the present Writ Petition, to quash the order of the first respondent, dated 08.09.2020 and to direct the first respondent to give the compassionate appointment to the second petitioner.

2.According to the petitioners, the husband of the first petitioner-K.Gandhi while working as Special Sub Inspector of Police, died on 12.11.2009. The first petitioner made an application on 18.11.2010 for appointment on compassionate ground to the second petitioner, who is her younger son. No order was passed on the said representation. Again, the petitioner gave a representation, dated 02.12.2013, to the Director General of Police. The second petitioner made an application on 15.07.2014 along with necessary documents for appointment on compassionate ground. In the meantime, the first respondent sent a memo, dated 04.09.2017, to the second respondent directing him to get the report and certificate relating to the service of the first petitioner's elder son and his desertion of the family. The Tahsildar conducted an enquiry and issued a Certificate, dated 08.02.2018, to the effect that the first petitioner's elder son is living separately and abandoned the family. Without considering the certificate and without conducting personal enquiry, the first respondent passed the impugned order, dated 08.09.2020, rejecting the claim of the petitioner. Challenging the said order,



the petitioner has filed the present Writ Petition.

3.The learned counsel appearing for the petitioners submitted that the first respondent, without considering the Government Order in G.O.Ms.No.998, Labour and Employment Department, dated 02.05.1981 and the clarification of the Secretary to the Government, vide letter No.31, dated 25.02.1994, erroneously rejected the application of the petitioners on the sole ground that the first petitioner's elder son is in Government service. The impugned order passed by the first respondent is illegal. The letter No.31, dated 25.02.1994, was issued in clarification to the Government Order in G.O.Ms.No.998, Labour and Employment Department, dated 02.05.1971, wherein it has been stated that on the date of death of an employee, when any member of the family was employed, married and living separately, the application of other eligible dependant may be considered for appointment on compassionate ground. The learned counsel appearing for the petitioners further contended that without considering the certificate issued by the Tahsildar and without conducting any personal enquiry, the first respondent rejected the claim of the petitioner, which is illegal and prayed for quashing the impugned order and for a direction to the first respondent to give appointment to the second petitioner.

4.Heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the respondents and perused the entire materials available on record.

5.From the averments made in the affidavit filed in support of the Writ Petition and the contention of the learned counsel appearing for the petitioners, it is seen that the husband of the first petitioner, the father of the second petitioner died on 12.11.2009 while in service. It is also the admitted case of the petitioners that the first son of the first petitioner employed as Grade-II Police Constable from the year 2008 onwards. On the date of the death of the employee, the first son who was employed, was not married and the petitioner, her first son and other three sons were living together as a joint family. The first petitioner's first son was married only in the year 2011. As per the report of the Tahsildar, dated 08.02.2018, the first petitioner's first son married only on 07.11.2011 and living separately. In the first application made by the first petitioner on 18.01.2010, she has not mentioned that her first son is employed as Grade-II Police Constable at the time of the death of her husband. On the other hand, she has stated that the family consisting of her husband, the first petitioner and four sons and they have maintained the family from the income of her husband. She has stated in her representation, dated 02.12.2013, addressed to the Director General of Police that her first son is employed and living separately and her two other sons married and living separately. Further, it is pertinent to note that the second petitioner made an application on



15.07.2014, seeking appointment on compassionate ground. By an order, dated 30.08.2016, the said application was rejected. The second petitioner did not challenge the said rejection order and the said rejection order has become final. The first respondent, considering the representation of the petitioners, issued a memo, dated 04.09.2017 to the second respondent to inform the first petitioner to get certificate from the Tahsildar with regard to employment of her first son and that whether he abandoned the family. The Tahsildar issued the report, dated 08.12.2018, that the first petitioner's first son got married only on 07.11.2011 and living separately. Hence, the Government letter relied on by the petitioners is not applicable to the case of the petitioners, as on the date of death of the first petitioner's husband, the first son was employed and living along with the petitioners and other brothers and he got married only in the year 2011 and living separately. The first respondent has considered all the above materials and rejected the request of the petitioners by giving cogent and valid reasons and there is no reason to interfere with the impugned order, dated 08.09.2020.

6. For the above reasons, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

**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 Superintendent of Police,  
O/o. District Police Office,  
Theni District, Theni.

2. The Inspector of Police,  
Gudalur, Theni District.

+1 CC to M/s. SPL GP ( SR-22108[F] dated 12/07/2021 )

W.P(MD)No.8688 of 2021

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RD(30.07.2021) 3P 4C