



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.8455 of 2021

WEB COPY

Vinoth Kanna

... Petitioner

Vs.

1.The State of Tamilnadu,
Through its Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, Fort St. George,
Chennai-600 009.

2.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.

3.The District Registrar,
Trichy District, Trichy-620 001.

4.Mahalakshmi

... Respondents

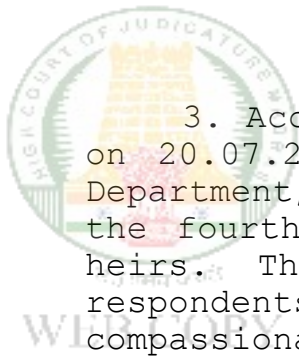
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to provide appropriate appointment to the petitioner on compassionate grounds, on account of death of his Mother Tmt.Yogamalar, who worked as Sub-Registrar and died on 20.07.2020 while she was in service, within stipulated time fixed by this Court.

For Petitioner	: Mr.J.Anandkumar
For R1 to R3	: Mr.K.S.Selvaganesan Government Advocate

ORDER

The petitioner has come out with present writ petition for a direction to the respondents 1 to 3 herein to provide appropriate appointment to the petitioner on compassionate ground, on account of death of his Mother Tmt.Yogamalar, who worked as Sub-Registrar and died on 20.07.2020 while in service.

2. Though notice was served on the fourth respondent and her name is printed in the cause list, there is no representation either in person or through counsel.



3. According to the petitioner, his mother Tmt.M.Yogamalar died on 20.07.2020 while working as Sub Registrar in the Registration Department, leaving behind her husband Thangavel, the petitioner and the fourth respondent, who are the son and daughter as her legal heirs. The petitioner gave representation, dated 05.10.2020 to the respondents 1 to 3 for appointment of the petitioner on compassionate ground, enclosing all the documents. The petitioner's father by the statement, dated 05.10.2020, gave no objection. After the death of his mother, the petitioner and his father got the fourth respondent married to a Doctor, with whom the fourth respondent was in love. From and out of the retirement benefits, the fourth respondent was given jewels, articles and cash to the tune of Rs.17,00,000/-. The fourth respondent is financially well off and well settled in her life. The petitioner and his father are struggling in indigent circumstances and they are unable to maintain themselves. The petitioner has to look after his aged father. By letter dated 01.02.2021, the respondents 1 to 3 are insisting the petitioner to produce the No Objection Certificate from the fourth respondent. The fourth respondent refused to give No Objection Certificate on the ground that she was not given her share in the terminal benefits of her mother and share in the properties. According to the petitioner, his mother did not leave any immovable properties and from and out of terminal benefits only all the marriage expenses of fourth respondent was met and jewels were given to the fourth respondent.

4. The learned counsel appearing for the petitioner submitted that as per the Government Order in G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the petitioner being the son of the deceased employee, is given first preference for being appointed on compassionate ground. A married daughter can be considered for appointment if she is otherwise eligible. The fourth respondent is not in indigent circumstances. The respondents 1 to 3 ought to have considered the petitioner's application in the light of G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020 and give appointment to the petitioner on compassionate ground and prayed for allowing the writ petition. The learned counsel appearing for the petitioner also relied on the Government Order relating to appointment on compassionate ground and submitted that Compassionate ground appointment should be given to the wife/husband of the deceased Government Servant or only to the person nominated by the wife/husband of the deceased Government Servant subject to eligibility and husband of the deceased nominated the petitioner and therefore, No Objection from the fourth respondent is not necessary and prayed for allowing the writ petition.

5. Learned Government Advocate appearing for the respondents 1 to 3 submitted that deceased Government employee left behind her 3 dependents, i.e., husband, son, the petitioner herein and



daughter/fourth respondent. When application is made for appointment on compassionate ground to one of the legal heirs, other legal heir must give No Objection Certificate. In the present case, the fourth respondent, the daughter of deceased is objecting for giving compassionate appointment to the petitioner. Therefore, writ petition is liable to be dismissed and prayed for dismissal of the same.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 3 and perused the materials available on record.

7. From the materials on record, it is seen that the petitioner, who is the son of the deceased, is seeking appointment on compassionate ground. The husband of the deceased, who is the father of the petitioner, has given No Objection Certificate and also nominated the petitioner for compassionate appointment in his letter, dated 05.10.2020. According to the respondents 1 to 3, the fourth respondent, who is the daughter of the deceased and one of the legal heirs of the deceased, is objecting to grant appointment to the petitioner on the ground that she was not given share in the retirement benefits of her mother and her share in the properties. As rightly pointed out by the learned counsel appearing for the petitioner that the fourth respondent has to agitate her right before the competent forum and her objection for not giving No Objection Certificate is to be considered only in the light of G.O (Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020. 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."

Further, as per said Government Order, husband or wife of the deceased employee is the first choice for compassionate appointment. If they are not willing or not eligible for compassionate appointment, the other legal heirs nominated by husband or wife of the deceased employee is entitled to get appointment on compassionate ground, if otherwise eligible. The said portion of Government Order reads as follows:-

"Compassionate ground appointment should be given to the wife/husband of the deceased Government Servant or only to the person nominated by the wife/husband of the deceased Government Servant subject to eligibility."

As per G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, first preference is to be given to husband or wife of the deceased employee and next preference is to the person nominated by husband or wife of the deceased employee. Further, as per the Government Order, among the children of the deceased, the first choice is given to the son. A married daughter can be considered if she is otherwise eligible. In the present case, husband of deceased, father of the petitioner and the fourth respondent, has nominated the petitioner, who is the son of the deceased employee.

8. For the above reason and the nature of objections raised by the fourth respondent and that the fourth respondent has not denied the fact that her husband is a Doctor and she is financially well settled, this Court directs the respondents 1 to 3 to consider the case of the petitioner, for appointment on compassionate ground, without insisting the No Objection Certificate from the fourth respondent and in the light of G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, within four weeks from the date of receipt of a copy of this order.

9. With the above directions, the writ petition is allowed. No costs.

Sd/-

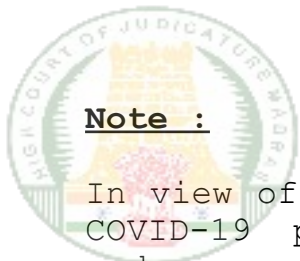
Assistant Registrar (CS I)

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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 to Government,
Commercial Taxes and Registration Department,
Secretariat, Fort St. George,
Chennai-600 009.

2.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.

3.The District Registrar,
Trichy District, Trichy-620 001.

+1 CC to M/s.J.ANANDAKUMAR, Advocate (SR-19723[F] dated
21/06/2021)

+1 CC to M/s.SPL GP (SR-19755[F] dated 21/06/2021)

W.P. (MD)No.8455 of 2021

17.06.2021

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