



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.10072 of 2021

Keerthana Devi

... Petitioner

vs.

1.The Director General of Police,
DR. Radhakrishnan Salai,
Chennai - 600 009.

2.The Commandant of Police,
14th Battalion Office,
Tamil Nadu Special Police,
Palani,
Dindigul District.

3.Eswari

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first and second respondents to appoint the petitioner in any suitable post under the compassionate grounds without insisting the No Objection Certificate from the third respondent.

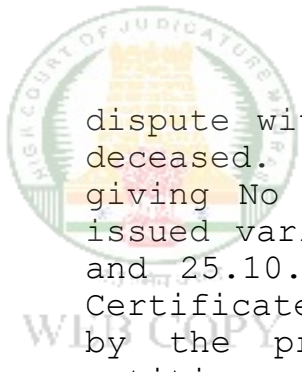
For Petitioner : Mr.A.Shajahan

For Respondents : Mr.K.S.Selvaganesan
Government Advocate for R1 & R2
Mr.S.Balaji for R3

ORDER

The petitioner has come out with present Writ Petition for a direction to the respondents 1 and 2 to appoint the petitioner in any suitable post under the compassionate ground without insisting No Objection Certificate from the third respondent.

2. According to the petitioner, her husband viz., Sivanandi, who died on 02.02.2017 in a road accident, while working as Naik under the second respondent office. The petitioner gave a representation to the second respondent, seeking appointment on compassionate ground. The petitioner has a qualification in B.Sc.,B.Ed., and she is eligible to be appointed in any suitable post in the service of respondents 1 and 2. The deceased husband of the petitioner was the only bread winner of the family. The petitioner and the third respondent, mother-in-law, are having some



dispute with regard to the movable and immovable properties of the deceased. In view of such dispute, the third respondent is not giving No Objection Certificate. While so, the second respondent issued various proceedings dated 23.06.2017, 01.08.2017, 18.09.2017 and 25.10.2017, insisting the petitioner to produce No Objection Certificate from the third respondent. Again the second respondent, by the proceedings dated 30.03.2021, sent a reminder to the petitioner to get No Objection Certificate from the third respondent. In such circumstances, the petitioner has come out with the present Writ Petition for the above relief.

3. The learned counsel appearing for the petitioner submitted that as per G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the petitioner being the spouse of the deceased is entitled to be appointed on compassionate ground. The learned counsel for the petitioner referring to page No.6 of G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, submitted that the petitioner being the spouse of the deceased is entitled to get appointment on compassionate ground and prayed for a direction to the respondents 1 and 2 to give appointment on compassionate ground without insisting for No Objection Certificate.

4. Mr.K.S.Selvaganesan, learned Government Advocate appearing for the respondents 1 and 2 submitted that the third respondent is one of the legal heirs of the deceased and she is objecting to compassionate appointment being given to the petitioner. In such circumstances, the second respondent is unable to process the application of the petitioner and issued letters to the petitioner for obtaining No Objection Certificate from the third respondent. Now, as per G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the petitioner's representation was considered and her name was placed in the headquarters waiting list and she will be given appointment. The third respondent, who is the mother of the deceased, is not entitled to get appointment.

5. Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent.

6. It is not in dispute that the petitioner is the wife of the deceased Police Constable Sivanandi. As per G.O(Ms)No.18, Labour and Employment (Q1) Department, dated 23.01.2020, first preference is to be given for appointment on compassionate ground to the wife or husband of the deceased. Page No.6 of the Government Order enumerates the persons, who are eligible to be considered for appointment on compassionate ground in the order of preference, which reads as follows:

*"(i) Son / Unmarried Daughter / Wife / Husband /
legally adopted son/ legally Unmarried adopted daughter/
widowed daughter / divorced daughter / deserted daughter of*



the deceased Government 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.

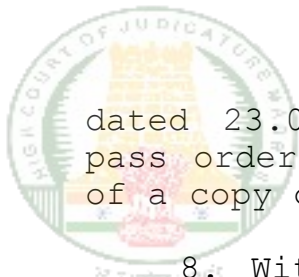
(vi) If any member of the deceased Government Servant's family is working on Temporary / Part time basis such as noon-meal organizer and helpers, and those who work on daily wages, the other dependents of the family may be considered for providing appointment."

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:-

"NOMINATION

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."

7. In the present case, the petitioner, who is the wife of the deceased, seeking appointment on compassionate ground. According to the petitioner, third respondent is the mother of the deceased. Due to some property dispute, she is objecting to give appointment to the petitioner. The petitioner in the affidavit stated that she has filed a suit in O.S.No.85 of 2018 before the Sub Court, Uthamapalayam and obtained a preliminary decree. Considering the above facts that the third respondent is objecting to give appointment to the petitioner and not giving No Objection Certificate due to property dispute and the contention of the learned Government that the petitioner's representation was considered favorably and her name was placed in the headquarters waiting list, the respondents 1 and 2 are directed to consider the case of the petitioner for appointment on compassionate ground, in the light of G.O(Ms)No.18, Labour and Employment (Q1) Department,



dated 23.01.2020, without insisting No Objection Certificate and pass orders within a period of four weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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 General of Police,
DR. Radhakrishnan Salai,
Chennai - 600 009.

2.The Commandant of Police,
14th Battalion Office,
Tamil Nadu Special Police,
Palani,
Dindigul District.

+1 CC to M/s.SPL GP (SR-20572[F] dated 29/06/2021)

+1 CC to M/s.A.SHAJAHAN, Advocate (SR-20625[F] dated 30/06/2021)

**W.P(MD)No.10072 of 2021
28.06.2021**

KMK(CO)
TR(09.07.2021) 4P 5C