



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 31.08.2021
CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WEB COPY

W.P (MD) No.11495 of 2020

S.Kalaiyarasi

... Petitioner

Vs.

1.The Director of Public Health and Preventive Medicine,
No.64/75, Main Road,
Chokkalinga Nagar,
Teynampet, Chennai - 600 086.

2.The Commissioner of Municipal Administration,
No.78, Urban Administrative Building,
Santhome High Road,
Chennai - 28.

3.The Regional Director of Municipal Administration,
Melakkal Road, Kochadai,
Madurai - 625 016.

4.The Joint Director,
Public Works Department,
Collectorate Campus,
Sivagangai.

5.The Commissioner,
Devakottai Municipality,
Devakottai,
Sivagangai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to disburse the death benefits of petitioner's husband and also give compassionate appointment to the petitioner on the basis of her representation dated 24.07.2019, within the time frame to be fixed by this Hon'ble Court.

For Petitioner : M.Fernand
For Respondents : Mr.S.Shanmugavel,
for State for R1 to R4.
Mr.Mohammed Imran for R5.

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the respondents to disburse the death
<https://hcservices.ecourts.gov.in/hcservices/>



benefits of petitioner's husband and also to give compassionate appointment to the petitioner on the basis of her representation dated 24.07.2019, within the time frame to be fixed by this Hon'ble Court.

2. Heard the learned counsel appearing for the petitioner and the learned Counsel appearing for the respondents.

3. According to the petitioner, her husband joined in the Primary Health Centre, Devakottai as Hospital Worker on 09.05.2012 on temporary basis and he served more than 7 years. Unfortunately, on 05.07.2019 he died, while he was in duty. The petitioner has to take care of her family including the school going children and her aged mother-in-law. They are depending upon the salary of the petitioner. Hence, the petitioner submitted a representation on 24.07.2019 to the respondents by enclosing necessary documents requesting to disburse her husband's death benefits and also to provide compassionate appointment to her.

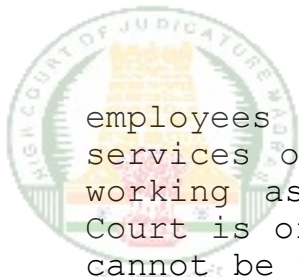
4. According to the petitioner, the petitioner was appointed on 09.05.2012 on temporary basis and since he died on 05.07.2019, the petitioner seeks for compassionate appointment on the ground that her husband served in the Department for more than 7 years on temporary basis. Therefore, she is entitled for compassionate appointment. In the G.O.Ms.No.18, Labour and Employment Department dated 23.01.2020, eligibility for compassionate appointment has been specifically prescribed. The relevant Clauses of the aforesaid Government Order is extracted hereunder:

"Persons whose legal heirs are not eligible for compassionate appointment ground appointment:

- (i) Persons who are retained in service under Fundamental Rule 56(1)(c) after the date of superannuation;
- (ii) Persons who are under temporary appointments, consolidated pay, daily wage, contract appointments and whose services are not regularized;
- (iii) Persons who do not come under regular time scale of pay."

5. In view of the aforesaid specific clauses, the father of the petitioner was employed on temporary basis and his services were not regularized in service by the respondent. Therefore, in the light of the aforesaid Government Order, the petitioner is not eligible for compassionate appointment. Mere serving for more than 7 years by the petitioner's father will not give any right to the petitioner claim for compassionate appointment, when admittedly, his services were not regularized and he was employed on temporary basis.

6. This Court is of the opinion that the scheme of compassionate appointment is to be provided only for permanent



employees and not a temporary seasonal employees. Admittedly the services of the deceased employee were not regularised and he was working as a temporary Hospital Worker. This being factum, this Court is of the opinion that the scheme of compassionate appointment cannot be provided to the temporary employees and the principles in relation to the scheme of compassionate appointment was well settled by this Court in various decisions.

7. In the light of the above, no relief can be granted as there is no merit in the Writ Petition. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /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:

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No.64/75, Main Road,
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+1 CC to M/s.GP (SR-27763[F] dated 01/09/2021)

W.P (MD) No.11495 of 2020

31.08.2021

RD(17.09.2021) 4P 7C