



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2021

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THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.(MD).No.18804 of 2020

Gayathri Devi

... Petitioner

Vs.

1. The Director of School Education,
DPI Campus,
College Road,
Chennai - 06.

2. The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Mu.Mu.No.9837/A1/2017 dated 01.10.2020 on the file of the second respondent and quash the same as illegal and consequently direct the second respondent to provide compassionate appointment to the petitioner in a suitable post considering the petitioner's application dated 28.12.2011 within the time period stipulated by this Court.

For Petitioner : Mr. T. Lajapathi Roy
For Respondents : Mr. S. Shanmugavel
Counsel for State

O R D E R

The Writ Petition is filed for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Mu.Mu.No.9837/A1/2017 dated 01.10.2020 on the file of the second respondent and quash the same as illegal and consequently direct the second respondent to provide compassionate appointment to the petitioner in a suitable post considering the petitioner's application dated 28.12.2011 within the time period stipulated by this Court.

2. The writ petitioner's father was working as School Assistant at Government Higher Secondary School, Kottaram, Kanyakumari District, and he died on 12.08.2009 in harness leaving behind the following legal heirs: S. Saraswathi, wife, S.Balasivanantha Prabhu, son, Madhava Sankar, son, Karpagavalli, daughter, Sarathamani Devi, daughter, Srinivasa Ramanjuam, son and Gayatridevi, daughter.



3. The petitioner Gayathir Devi, had submitted an application for compassionate appointment to the second respondent on the death of her father. According to the petitioner, the other family members had given no objection with regard to the petitioner's application for compassionate appointment. The said application was rejected by the second respondent on the ground that the petitioner's elder brother, S.Balasivanantha Prabhu was an employee in the Annamalai University and other family members are educated and having earning capacity. The said order was challenged in W.P. (MD)No.15781 of 2019 before this Court. By order dated 31.07.2019, this court dismissed the writ petition. Aggrieved by the same, the petitioner had filed W.A.(MD).No.1050 of 2019. By judgment dated 16.12.2019, the Division Bench of this Court has set aside the impugned aforesaid rejection order and the matter was remitted back to the second respondent to consider afresh and pass appropriate orders. Subsequently, now the present impugned order has been passed by the second respondent. Challenging the aforesaid order, the writ petitioner has filed the present writ petition before this Court.

4. According to the petitioner, the reason as stated in the order is that the petitioner's brother, one Srinivasa Ramanjiam is a practising advocate and hence, her application was rejected. The respondents have not considered the total income of the family of the deceased employee. Without considering all these aspects, the said order has been passed without application of mind and apart from that there is no bar to consider the application of the sister, if the elder brother is practising as an advocate, under the Government orders. The Government order says that only if any person of the deceased Government servant's family is a regular employee of the Government or any Private Enterprise the said application for appointment on compassionate ground cannot be considered. Therefore she seeks for setting aside the impugned order and direct the respondent to consider her application on merits and pass appropriate orders.

5. The learned Government Pleader submitted that the writ petitioner has to place relevant records before the concerned authorities, especially the financial status of the family as well as status of the other brothers and sisters of the family of the deceased father and if those details satisfy with the guidelines of the Government Order, then the petitioner is entitled to compassionate appointment.

6. It is seen from the submissions of the counsel for the parties concerned, that it is an undisputed fact that the petitioner's father died on 12.08.2009, while he was in service and after death of the petitioner's father, the petitioner submitted an application which was rejected for the reason that the petitioner's elder brother was employed at Annamalai university,

respondent
applicatio

8. In fine, the impugned order is quashed and the writ petition is allowed and the respondents are directed to consider afresh and pass order on the application of the petitioner, in the light of G.O.Ms.18 Labour and Employment (Q1) Department, dated 23.01.2020 and to pass appropriate orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of the copy of this order. No costs.

Assistant Registrar (Records)

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1. The Director of School Education, DPI Campus,
College Road, Chennai - 06.

2. The Chief Educational Officer,
Nagercoil, Kanyakumari District.

+1 CC to M/s.GP (SR-28069[F] dated 03/09/2021)

02.09.2021