



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.[MD]No.448 of 2018

T.Vasuki : Appellant / Petitioner

Vs.

The District Collector,
Collectorate, Theni.

: Respondent / Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying this Court to set aside the order passed in W.P.(MD).No.6590 of 2013, dated 03.01.2018.

Prayer in WP(MD). 6590 of 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Calling for the records of the respondents relating to the file in Na.Ka.No. A2/26347/2009; Quash the order of the respondent Dt.3.4.2013, passed therein, Direct the Respondent to consider the application of Selvi.Padmapriya the daughter of the petitioner and one among the legal heirs of the deceased Mr.R.Thangam for compassionate appointment.

For Appellant	: Mr.S.Seenivasagam
For Respondent	: Mr.R.Baskaran, Standing Counsel for Government

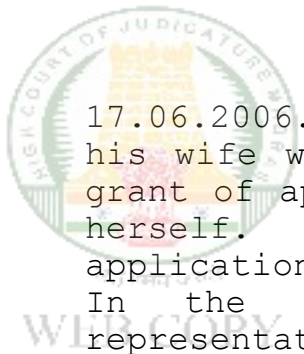
JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

This appeal by the writ petitioner is directed against the order dated 03.01.2018 passed in W.P.(MD).No.6590 of 2013, filed by the appellant to quash the proceedings of the respondent, dated 03.04.2013, rejecting the application filed by the appellant for grant of appointment on compassionate grounds for her daughter viz., Selvi.Padmapriya.

2. We have heard Mr.S.Seenivasagam, learned counsel appearing for the petitioner and Mr.R.Baskaran, learned Government counsel appearing for the respondent.

3. The undisputed facts are that the appellant's husband Mr.R.Thangam was working as an Assistant in the Office of the District Collector, Theni District and died in harness on



17.06.2006. At the time of demise of Mr.R.Thangam, the appellant / his wife was aged about 48 years and submitted an application for grant of appointment on compassionate grounds, dated 10.04.2006 for herself. The respondent / Department did not consider the said application and kept the matter pending for more than six years. In the interregnum, the petitioner has submitted various representations, dated 24.09.2012 and 05.10.2012. In those representations, the appellant has pointed out her health condition and now, she is unable to manage the family and also not able to work, if employment is granted to her. Even much prior to that i.e., on 01.06.2010, she had submitted an application for grant of appointment on compassionate grounds to her daughter Selvi.Padmapriya. This application was kept pending for merely three years and by an order dated 03.04.2013, the same was rejected. The only reason given in the order of rejection is that the appellant alone can seek for appointment on compassionate grounds and she cannot seek for appointment for her daughter. This conclusion is erroneous and contrary to the scheme framed by the State Government for grant of appointment on compassionate grounds.

4. As pointed out by the learned Government counsel appearing for the respondent, it may be true that there might have been representation given by the appellant to grant appointment to her elder daughter, but even assuming such request was made, no orders were passed by the respondent on those applications and in the order dated 03.04.2013 impugned in the writ petition.

5. The only reason is that the appellant cannot seek for compassionate appointment for her daughter. Very recently, the Government of Tamil Nadu has issued comprehensive guidelines for appointment on compassionate grounds in G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020. In terms of the said Government Order in the order of preference, the children of the deceased are placed higher than the widow of the deceased. The following has been mentioned which will be the order of preference / eligibility:

"Legal Heirs / Near relatives of the deceased Government servant/Person, who are eligible for compassionate grounds appointment

(i) Son / Unmarried Daughter / Wife / Husband / Legally Adopted Son / Legally Unmarried Adopted Daughter / Widowed Daughter / Divorced Daughter / Deserted Daughter of the Deceased Government Servant."

6. In any event, what is required to be seen as per the scheme for compassionate appointment is that whether the family has been driven to indigent circumstances on account of the untimely demise of the employee. If the said test is satisfied then what is required to be seen is whether the application is given within the



time prescribed and whether all credentials are furnished. If that is so, the application can be considered. If there are more than one legal heirs and appointment is sought for one of the legal heirs, the other legal heirs can be asked to give their no objection. This is the procedure which has been followed in the State for several decades and this has also been very emphatically reiterated in the recent Government Order. Thus, we find that the reasons assigned in the order, dated 03.04.2013 is erroneous. Hence, we are constrained to interfere with the order, dated 03.04.2013 passed by the respondent.

7. In the result, the Writ Appeal stands allowed. The order passed in the Writ Petition is set aside. Consequently, the order impugned in the writ petition, dated 03.04.2013, is quashed and the respondent is directed to provide appointment to the daughter of the appellant, namely, Selvi.Padmapriya on compassionate grounds, within a period of three (03) months from the date of receipt of a copy of this Judgment. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/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
The District Collector,
Collectorate, Theni.

+1 CC to M/s.SPL GP (SR-19213[F] dated 11/06/2021)

+1 CC to M/s.S.SEENIVASAGAM, Advocate (SR-19239[F] dated 14/06/2021)

JUDGMENT MADE IN
W.A.[MD]No.448 of 2018
Dated 10.06.2021

SRK(CO)
TR(18.06.2021) 3P 4C