



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P(MD)No.12035 of 2018

and

W.M.P(MD) .Nos.10971 & 10972 of 2018

S.Muniyammal

... Petitioner

Vs.

1. The Commissioner of Municipalities,
Commissionerate of Municipal Administration,
6th Floor Ezhilagam, Annex Building, Chepauk, Chennai.

2. The Commissioner,
Ottanchathiram Municipality,
Dindigul District.

3. The Commissioner,
Villupuram Municipality,
Villupuram.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the impugned order passed by the second respondent vide, Na.Ka.No.164/2016/B1, dated 02.12.2016 and to quash the same as illegal and further direct the respondents to appoint the Petitioner in any post under compassionate ground on the demise of her mother Late.Karuppayee who expired on 22.12.2015, while she was working as a sweeper in the second respondent.

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.A.K.Manickam,
Standing Counsel for R1.
Mr.J.Parekh Kumar,
for R2 & R3.

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the impugned order passed by the second respondent vide, Na.Ka.No.164/2016/B1, dated 02.12.2016 and to quash the same as illegal and further direct the



respondents to appoint the Petitioner in any post under compassionate ground on the demise of her mother Late.Karuppayee who expired on 22.12.2015, while she was working as a Sweeper in the second respondent.

2. According to the petitioner, her mother, Late Karuppayee who is the only bread winner of the family consisting of the petitioner and her mother and her husband who is a unsound person. The mother of the petitioner died in harness on 22.12.2015 while working as Sweeper in 3rd respondent Municipality. After her demise, the petitioner made an application on 18.02.2016 well within the stipulated period to the 2nd respondent, seeking to provide employment under compassionate grounds. However, the 2nd respondent without considering the indigent circumstances which the family of the deceased employee was facing, rejected the application vide proceedings dated 02.12.2016 on the ground that married daughter is not entitled to the compassionate appointment. Aggrieved by the said order, the petitioner has come forward with the present writ petition.

3. The learned Standing counsel appearing for the first respondent would submit that the petitioner has not produced the relevant documents before the authority and she has not annexed the Legalheir certificate that she is the daughter of the deceased employee Late Karuppayee. He would further submit that being a married daughter, she is not entitled to the compassionate appointment and he relied upon G.O.(Ms).No.18, Labour and Employment (Q1) Department, dated 23.01.2020, consolidating all the guidelines in all the previous Government Orders and Letters, which occupied the field of compassionate appointment. He submitted that the petitioner is a deserted daughter of the deceased employee and since no relevant documents were furnished, the 2nd respondent has rightly rejected her application, which requires no interference.

4. Heard the learned counsel appearing for the petitioner and the learned Counsel appearing for the respondents and perused the entire materials available on record.

5. The case of the writ petitioner is that she is the daughter of the deceased employee and her husband was a mentally unsound person who deserted her and she is living separately along with a child and she was dependent upon the income of the deceased employee and after her demise, there is no source of income and the family of the deceased employee is under indigent circumstances. The main ground for rejection of the claim of the petitioner is that she is a married daughter and she has not furnished the documents except Family Card, to show that she is the daughter and dependent of the deceased employee. Now the learned counsel for the petitioner would submit that a reasonable opportunity may be provided for the petitioner to file additional documents which are required for the consideration of the claim for compassionate appointment.



6. As regards the entitlement of the compassionate appointment by the married daughter, this Court in W.P.No.22171 of 2013 dated 13.08.2013 [**Jayalakshmi Vs. Tamil Nadu Generation and Distribution Corporation Ltd., rep. by its Chairman**] held that Government order making discrimination in the matter of compassionate appointment to a daughter on the ground that she is married is bad. In this context, it is relevant to extract paragraph 5 of the aforesaid order:-

"5. In similar circumstances, the matter was considered by me in W.P.(MD) No.5183 of 2013 (M.Sudha vs. the District Collector, Thanjavur District), and I set aside the similar impugned order and issued direction to the respondent therein to consider the case of the petitioner therein for compassionate appointment, if the petitioner therein was otherwise eligible for appointment. In fact, in the said judgment, I followed the earlier judgment of mine in W.P.(MD) No.8686 of 2011. The relevant paragraph 5 of the aforesaid judgment is extracted hereunder:

"5. As rightly contended by the learned counsel for the petitioner, the matter is squarely covered by a decision dated 2.7.2012 rendered by me in W.P.(MD) No.8686 of 2011. Paragraph 9 of the judgment is extracted hereunder:

"9. As stated above, if marriage is not a bar in the case of son, the same yardstick shall be applied in the case of a daughter also. At this juncture, it is relevant to take note of the statute, namely the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 which places equal duty on both the son and daughter to take care of the parents at the old age. Therefore, in the case of death of the parents, there cannot be any unequal treatment among the children based on sex. Further, as rightly contended by the learned counsel for the petitioner, the judgment of this Court reported in 2008 5 CTC 685 (G.Girija vs. Assistant Director (Panchayats) Kancheepuram, Kancheepuram District) applies to the facts of this case. In the said case, the Government servant died on 26.2.1991. The daughter got married on 10.9.2006. She gave an application for compassionate appointment on 2.6.1997. This court quashed the order declining to give compassionate appointment holding that there cannot be any discrimination between sons and daughters in the case of giving compassionate appointment. The said judgment squarely applies to the facts of this case. Therefore, I have no hesitation to quash the impugned order. Accordingly, the impugned order is quashed and a direction is issued to the respondents to



consider the claim of the petitioner for compassionate appointment without reference to the marriage of the petitioner and to pass appropriate orders in the light of this judgment within a period of eight weeks from the date of receipt of a copy of this order."

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7. In view of the above, there is no impediment for the 2nd respondent to consider the claim of the writ petitioner subject to production of all relevant documents by the writ petitioner.

8. Accordingly, while setting aside the impugned order of the 2nd respondent, the matter is remitted back for fresh consideration to the 2nd respondent and the petitioner is permitted to produce all the relevant documents within a period of 4 weeks from the date of receipt of a copy of this order and on such production of the documents, the 2nd respondent shall consider the same and pass appropriate orders in accordance with law in the matter of providing compassionate appointment to the petitioner, within a period of 8 weeks thereafter.

9. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

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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 Commissioner of Municipalities,
Commissionerate of Municipal Administration,
6th Floor Ezhilagam, Annex Building, Chepauk, Chennai.

2. The Commissioner,
Ottanchathiram Municipality,
Tiruppur District.

<https://hcservices.ecourt.gov.in/hcservices>



3. The Commissioner,
Villupuram Municipality,
Villupuram.

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-25960[F]
dated 11/08/2021)

+1 CC to M/s.P.SRINIVAS, Advocate (SR-26025[F]
dated 11/08/2021)

+1 CC to M/s.GP (SR-25951[F] dated 11/08/2021)

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MGJ(06.09.2021) 5P 7C