



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2021

CORAM:

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P. (MD)No.3962 of 2017

D.Deepamathi

... Petitioner

versus

1. The Inspector General of Police,
Office of the Tamil Nadu Police Department,
'Q' Branch CID, Mylapore,
Chennai - 600 004.

2. The Superintendent of Police,
'Q' Branch CID,
Mylapore, Chennai - 600 004.

... Respondents

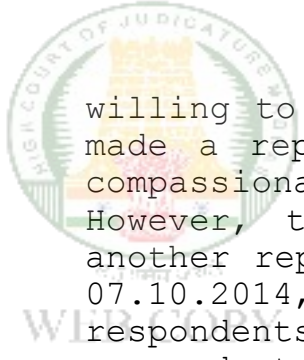
Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorarified mandamus, to call for the records pertaining to the impugned proceedings of the respondent No.2 in C.No.D2/Q/8371/2014 dated 09.02.2017 and quash the same as illegal and consequently, direct the respondents to provide employment for the petitioner on the basis of compassionate grounds within the time to be stipulated by this Court.

For Petitioner	: Mr.V.Meenakshi Sundaram for Mr.R.Venkatesan
For Respondents	: Mr.C.M.Mari Chelliah Prabhu, Additional Government Pleader

ORDER

This writ petition is filed seeking for the issuance of writ of certiorarified mandamus, to call for the records pertaining to the impugned proceedings of the respondent No.2 in C.No.D2/Q/8371/2014 dated 09.02.2017 and quash the same as illegal and consequently, direct the respondents to provide employment to the petitioner on the basis of compassionate grounds within the time to be stipulated by this Court.

2. The petitioner's father was employed as Special Sub-Inspector of Police in the Tamil Nadu Police Department and while he was in service, he died on 01.04.1981, leaving behind his wife, son and daughter (petitioner herein) as legal heirs. After the death of her father, since the petitioner's mother and her brother was not



willing to get appointment on compassionate grounds, the petitioner made a representation before the 1st respondent on 30.07.2014 for compassionate appointment along with all relevant documents. However, there was no response from him. Thereafter, she sent another representation to the 1st and 2nd respondents through post on 07.10.2014, however, the same has not evoked any response from the respondents. Once again, she made another representation to the respondents on 01.12.2016 through post, however, there was no response from the them. Therefore, the petitioner filed a writ petition in W.P.(MD)No.24554 of 2016, wherein, this Court directed the respondents to consider the representation of the petitioner dated 07.10.2014 and take a decision thereon within a period of two weeks from the date of receipt of a copy of the order. In compliance with the said order, the 2nd respondent passed an order dated 09.02.2017, rejected the claim of the petitioner, stating that her brother was working at Birla University, Dubai. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that admittedly, the petitioner's brother was also working at Birla University, Dubai. But, he is not taking care of his mother and her sister (petitioner herein). Further, the petitioner herein, on her own efforts, completed B.L.degree and thereafter, she had married. However, the petitioner has to take care of his mother and herself. Therefore, the petitioner made a representation for compassionate appointment. But, the 2nd respondent rejected the said representation on the ground that the petitioner's brother was working at Birla University, Dubai, which is not sustainable in law.

4. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that as per G.O.Ms.No.998 of Labour and Employment Department dated 02.05.1981, if in the family of the government servant who died in harness, there is already an earning member, irrespective of the fact that the member is employed in government service or elsewhere, other dependent members of the deceased government servant will not be eligible for grant of concession granted in the Government Orders. Further, the petitioner has become a practising lawyer even before the death of her father and her husband is employed in a software company. Moreover, the petitioner's brother was working in Dubai and the petitioner's mother had purchased a new Nissan Datsun Go Plus car in her name during March 2016. Therefore, the financial condition of the petitioner's family is good. Hence, the petitioner is not eligible for compassionate appointment.

5. Heard both sides and perused the materials available on record.

6. It is not in dispute that the petitioner is a B.L. Degree holder. Further, the compassionate appointment can be provided only in the last grade service, namely Grade 'C' and 'D' posts. As per the existing scheme, if any of the family members employed in a



private concern, other dependent members are not eligible for compassionate appointment.

7. Moreover, the Division Bench of this Court also, in **W.A.No.3899/2019 [P.Poongodi vs. The Chariman]**, held as under:

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"The purpose of providing employment on compassionate basis is to mitigate the hardship of the family which has arisen due to the death of the employee and such appointment therefore has to be provided immediately to ensure that the family tide over the sudden crisis which has arisen due to the death of the employee. The dependent of a deceased employee cannot be permitted to convert a tragedy into a bonanza. If the compassionate appointment is treated as one more source of recruitment, then it will be violative of Article 16 of the Constitution of India. It is settled by various decisions of the Hon'ble Supreme Court, an appointment on compassionate basis is a concession given by the employer to help the family of the deceased who has died in harness to get over the immediate financial crisis. The scheme under which compassionate appointment can be given has to be construed strictly."

8. In the light of the above decision and also considering the fact that the petitioner's brother was working in a private concern and the petitioner's family is not in a penurious condition, the petitioner is not eligible for compassionate appointment. Therefore, the impugned order passed by the 2nd respondent rejecting the request of the petitioner for compassionate appointment is correct and sustainable in law. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (W)

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The Inspector General of Police,
Office of the Tamil Nadu Police Department,
'Q' Branch CID, Mylapore,
Chennai - 600 004.



2. The Superintendent of Police,
'Q' Branch CID,
Mylapore, Chennai - 600 004.

+1 CC to SPL GP (SR-1828[F] dated 22/01/2021)

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21.01.2021

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