



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2021

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.10838 of 2016

P.Amsavalli

... Petitioner

versus

1. The Commissioner and Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 600 009.

2. The Commissioner of Revenue Administration,
Chepauk, Chennai - 600 005.

3. The District Collector,
Karur District, Karur.

4. The Revenue Divisional Officer,
Kuzhithalai, Karur District.

5. The Tahsildar,
Kuzhithalai Taluk, Karur District.

... 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 of the 3rd respondent/District Collector dated 19.10.2015 in his proceedings in Na.Ka.A3/12771/2015 which was received by the petitioner under RTI Act on 26.04.2016 and quash the same and consequently, direct the third respondent to appoint the petitioner as a Village Assistant in the Office of the 4th respondent on compassionate grounds within a time stipulated by this Court.

For Petitioner : Mr.P.T.Ramesh Raja
for Mr.A.Robinson

For Respondents : Mr.M.Jeyakumar,
Additional Government Pleader

ORDER

This writ petition is filed seeking for the issuance of writ of certiorarified mandamus, to call for the records of the 3rd respondent and quash the proceedings in Na.Ka.A3/12771/2015 dated



19.10.2015 and consequently, direct the third respondent to appoint the petitioner as a Village Assistant in the Office of the 4th respondent on compassionate grounds within a time to be stipulated by this Court.

2. The case of the petitioner is that the petitioner's father, while he was working as a Village Assistant at T.Idayapatti Village, died on 06.02.2003, leaving behind the petitioner, her mother and her sister as legal heirs. Immediately thereafter, the petitioner's mother submitted a representation to 3rd and 4th respondents for compassionate appointment, for which, the 4th respondent, in his letter dated 27.05.2003, directed the petitioner's mother to appear before him. Again, the 4th respondent, by his proceedings dated 06.09.2003, directed the petitioner's mother to submit the educational certificate and no objection certificate from the legal heirs. After submitting all the documents, there was no response from him. Therefore, the petitioner's mother, again, submitted another representation to the 3rd respondent, during the Grievance Day Meeting on 20.07.2005. But, the 3rd respondent, by his proceedings dated 02.08.2005 informed her that due to the ban imposed by the Government, the request will be considered after lifting the said ban. Thereafter, the petitioner's mother submitted another representation to the 3rd respondent, during the Grievance Day Meeting on 27.02.2006, for which, the petitioner's mother was asked to approach the 4th respondent with all relevant documents, vide his proceedings dated 11.03.2006. Once again, the petitioner's mother submitted all relevant documents to the 4th respondent. However, there was no response. Hence, the petitioner made a representation to the 4th respondent during the Grievance Day Meeting on 24.08.2016, for compassionate appointment along with all relevant documents. After receiving the same, the Revenue Divisional Officer, vide his proceedings dated 16.10.2015, directed the Tahsildar to make an enquiry and send a report to him. However, the District Collector, Karur, by his proceedings dated 19.10.2015, informed the petitioner that since she had married prior to the death of her father, her request cannot be considered. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that in the present case, immediately after the death of the petitioner's father, the petitioner's mother made representations for compassionate appointment to the 3rd and 4th respondents several times. But, the said representations were not processed stating that there was a ban imposed by the Government. Thereafter, in the year 2015, the petitioner made a representation for compassionate appointment along with relevant documents. However, the said representation was rejected by the respondents stating that she got married before the death of her mother. The learned counsel further submitted that as per G.O.Ms.No.165, Labour and Employment (Q2) Department, dated 30.08.2010 and the recent



23.01.2020, a married daughter is also entitled for compassionate appointment, if she is otherwise eligible. Hence, he prayed for compassionate appointment.

4. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that though the petitioner's mother initially made representations for compassionate appointment, due to the ban imposed by the Government, her representations were not considered. Thereafter, in the year 2008, the Tahsildar asked the petitioner's mother to produce all relevant documents for compassionate appointment, but, she did not turn up. Thereafter, the petitioner made a representation to the respondents for compassionate appointment in the year 2015, i.e. after 12 years from the date of death of her father. Since the petitioner got married prior to the death of her father, her representation was rejected. Further, the petitioner has not established that her family is in a penurious condition. Therefore, the request of the petitioner cannot be considered.

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

6. Though the petitioner's mother made several representations for compassionate appointment, the said representations were not considered due to the ban imposed by the Government. However, in the year 2008, the Tahsildar asked the petitioner's mother to produce all relevant documents, but, the petitioner's mother did not turn up. Therefore, the respondents had not considered the request of the petitioner's mother. Thereafter, the petitioner made a representation for compassionate appointment in the year 2015, that was rejected by the respondents on the ground that she had married before the death of her mother, which is not in dispute. Further, petitioner made a representation after 12 years from the date of death of her father. Apart from that, the petitioner has not established that her family is in a penurious condition.

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

"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



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 made an application after 12 years from the date of death of her father and also has not established that her family is in a penurious condition, the present writ petition is wholly unsustainable in law. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar

To

1. The Commissioner and Secretary to Government,
Revenue Department, Fort St. George,
Chennai - 600 009.
2. The Commissioner of Revenue Administration,
Chepauk, Chennai - 600 005.
3. The District Collector,
Karur District, Karur.
4. The Revenue Divisional Officer,
Kuzhithalai, Karur District.
5. The Tahsildar,
Kuzhithalai Taluk, Karur District.

+1 CC to M/s.GP (SR-1829[F] dated 22/01/2021)

W.P. (MD) No.10838 of 2016
21.01.2021

ogy

MS/27.02.2021/4P.7C