



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.17894 of 2016

and

W.M.P. (MD) .Nos.12944 and 12945 of 2016

S.Susila

... Petitioner

Vs.

1.The Director ,
ISRO Propulsion Complex (IPRC),
Mahendragiri Post-627 133,
Tirunelveli District.

2.The Senior Administrative Officer,
ISRO Propulsion Complex (IPRC),
Mahendragiri Post-627 133,
Tirunelveli District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the 2nd respondent in his proceedings No.IPRC/GAD/31/2016 dated 01.07.2016 and quash the same and consequently direct the respondents to provide employment to the petitioner on compassionate grounds based on the Educational Qualification within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.K.R.Laxman
Central Government Standing Counsel

O R D E R

This writ petition is filed seeking a writ of certiorarified mandamus to call for the records in pursuant to the impugned



order passed by the 2nd respondent in his proceedings No.IPRC/GAD/31/2016 dated 01.07.2016 and quash the same and consequently direct the respondents to provide employment to the petitioner on compassionate grounds based on the Educational Qualification within a reasonable time fixed by this Court.

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2. By consent of both parties, the writ petition is taken up for final disposal.

3. Heard the learned counsel for the petitioner and Mr.K.R.Laxman, learned Central Government Standing Counsel, who takes notice for the respondents.

4. The case of the petitioner is that the petitioner's husband, namely, C.Sampath Kumar, who was working as a Technical Assistant under the respondents, died in harness on 08.07.2014 leaving behind the petitioner, her daughter, son and her mother-in-law as legal heirs. Further, the petitioner, after getting divorce from the first husband, married Sampath Kumar, the deceased employee and he is not the biological father of the minor children of the petitioner. The petitioner made an application on 09.10.2015 before the respondents seeking for an appointment under compassionate ground and the said application was rejected on 01.06.2016 on the ground that the per capita income (PCI) of the petitioner's family is Rs.23,104/- per month, which exceeded the prescribed limit of Rs.9,200/-, hence, the petitioner is not entitled for compassionate appointment. Challenging the said rejection order, this writ petition has been filed.

5. The learned counsel for the petitioner would submit that the impugned order was passed on 01.07.2016 inadvertently only on the ground that the petitioner is receiving family pension and other terminal benefits, ie., the per capita income (PCI) of the petitioner's family is Rs.23,104/- per month, which exceeded the prescribed limit of Rs.9,200/-, which is not admissible in law. In support of his case, he relied on the judgement of the Hon'ble Apex Court in the case of **Govind Prakash Verma vs. Life Insurance Corporation of India**, reported in **(2005) 10 SCC 289**, wherein the Hon'ble Apex Court has held that taking into consideration the amount, which was being paid as family pension to widow of the deceased and other amounts paid on account of terminal benefits under the Rules, is wholly irrelevant to consider the claim for compassionate appointment. Hence, he prays for allowing this writ petition.

6. Per contra, the learned Central Government Standing Counsel appearing for the respondents would submit that the petitioner's husband has joined as Trades Man-A on 03.07.1991 in LPSC(now IPRC) and he had nominated his father, V.Chinnasamy for getting benefit



under CPF and Central Government Employees Group Insurance Scheme at the time of joining duty. However, he had married the petitioner, who got divorce through final decree from her first husband, namely, Annadurai and the deceased is not the biological father of her minor children and hence, the petitioner's averment in the affidavit that the deceased died leaving behind her children is not true and further, his nominations for CPF and Central Government Employees Group Insurance Scheme at the time of joining service became invalid after his marriage. He further submitted that at present, the petitioner is the only dependent of the deceased employee and is being paid an amount of Rs.23,105/- as family pension and she was already paid Rs.10,00,000/- towards Death Gratuity, Rs.60,000/- towards Group Insurance, Rs.4,23,940/- towards Leave Encashment, Rs.11,30,648/- towards VAST-SAFE and Rs.1,50,000/- towards Staff Benevolent Found (SBF) aggregating Rs.27,64,588/-. Apart from the above lump sum amount, the petitioner is being paid an amount of Rs.23,104/- per month as Family Pension with effect from 08.07.2014. He further submitted that as per Clause (18) of the Scheme, the requests for compassionate appointment consequent on death or retirement on medical grounds of erstwhile Group-D staff may be considered with greater sympathy by applying relaxed standards depending on the facts and circumstances of the case. But in the present case, Sampathkumar was appointed as Group-C staff. Hence, the authorities has rightly rejected the request of the petitioner and accordingly, he prays for dismissal of this writ petition.

7. This Court has considered the submissions made by both side counsels and in the decision cited by the learned counsel for the petitioner in **2005 (10) SCC 289 (supra)**, there is no second opinion in respect of the preposition of law laid down by the Hon'ble Apex Court and wherein it has held that merely, the application for compassionate appointment cannot be rejected on the ground that the family members of the deceased employee are being paid the Family Pension, however, in the present case, the petitioner has already been received terminal benefits to the tune of Rs.27,64,588/- apart from receiving Family Pension of Rs.23,104/-per month. However, the Scheme provided if a person receiving Rs.9,200/- per month as family pension is entitled for Compassionate appointment, however, the petitioner is receiving more than Rs.20,000/- per month as family pension and hence, she is not entitled for compassionate appointment. Hence, contrary to the Scheme, the petitioner cannot be appointed unless the petitioner satisfies the said requirements under the Scheme. Hence, this Court finds that there is no irregularity or illegality in the order impugned in this writ petition.

8. In the light of the above discussion, the present petition is wholly unsustainable and, accordingly deserves to be dismissed.



Accordingly, this writ petition stands dismissed. No Costs.
Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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.

+1 CC to MR.M.SARAVANA KUMAR, Advocate (SR-4079[F] dated 09/02/2021)

+1 CC to MR.K.R.LAXMAN, Advocate (SR-4086[F] dated 09/02/2021)

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