



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2021

CORAM:

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

W.P. (MD)No.20999 of 2016
and W.M.P. (MD)No.15010 of 2016

P.Rajalakshmi

... Petitioner

versus

1. The Regional Director of
Municipal Administration,
O/o. The Regional Director of
Municipal Administration,
Tirunelveli - 2.

2. The Commissioner,
Virudhunagar Municipality,
Virudhunagar 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 pertaining to the impugned order in A.Thi.Mu.No.2092/2011/A4, dated 11.05.2011 on the file of the 1st respondent and consequential order in Na.Ka.No.2155/2011 H2, dated 01.06.2011 passed by the 2nd respondent and quash the same as illegal and consequently, to direct the 2nd respondent, to consider the petitioner for employment on compassionate ground appointment, on the basis of Labour and Employment (Q1) Department, Letter (Ms) No.55, dated 24.05.2006 in the Annexure Column No.18, Recommendation of the Administrative Department concerned in the Secretariat in N.B.(Column No.vi).

For Petitioner : Mr.V.Baskaran

For Respondents: Mr.C.M.Marichelliah Prabhu,
Additional Government Pleader for R1

Mr.M.Muthugeethaiyan,
Standing Counsel for R2

ORDER

The petitioner has filed this writ petition seeking for a direction to the second respondent to provide her employment on compassionate grounds.



2. The case of the petitioner is that the petitioner's mother, who worked as sanitary worker in the second respondent Municipality, died on 23.01.2009. Immediately after the death of her mother, she submitted an application for compassionate appointment on 30.06.2009 to the second respondent in person, i.e. within three years from the date of death of her mother. However, the said application was rejected on the ground that her elder brother, namely, Nagarajan, is working as Sanitary Worker in the 2nd respondent Municipality and other elder brothers, namely, Nagendran, Naga Babu and Ayyappan are working on daily wage basis in Life Insurance Corporation. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the application for compassionate appointment was rejected on the ground that one of the elder brothers of the petitioner is working as Sanitary Worker in the second respondent Corporation and other three elder brothers are working in the Life Insurance Corporation on daily wage basis. The said ground was not a valid ground to reject the application, because, before the death of the petitioner's mother, her brothers were living separately, without supporting the petitioner's family. Therefore, the application made by the petitioner for compassionate appointment is a genuine one. He further submitted that the petitioner's family is in a penurious condition, but, the same was also not considered by the second respondent. Hence, he prayed for allowing the writ petition.

4. The learned Additional Government Pleader appearing for the first respondent submitted that as per the existing scheme, if one of the family members is employed as Government Servant, that family is not entitled for compassionate appointment. Further, the petitioner is living with her brothers. The financial hardship of the petitioner's family was not established before the authority. In the absence of any document, the application for compassionate appointment cannot be considered. It is further submitted that though the application for compassionate appointment was rejected in the year 2011, the petitioner has come forward to file the writ petition only in the year 2016. Therefore, the claim of the petitioner is not a genuine one. Accordingly, he prayed for dismissal of this writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the first respondent and the learned Standing Counsel appearing for the second respondent.

6. The very concept of giving a compassionate appointment is for the bereaved family to tide over the financial difficulties faced by it due to the untimely death of the breadwinner. Further,



indigency is one of the relevant factors to be borne in mind while deciding on providing compassionate appointment.

7. In the present case on hand, the petitioner's mother, who worked as sanitary worker in the second respondent died on 21.03.2009 and immediately thereafter, the petitioner submitted the application for compassionate appointment to second respondent on 30.06.2009, i.e. within three years from the date of death of her mother. However, the said application was rejected by the second respondent, by his proceedings dated 01.06.2011, on the ground that one of the elder brothers of the petitioner is working as sanitary worker in the 2nd respondent Corporation and other three brothers are also working in the Life Insurance Corporation.

8. Though it is claimed by the petitioner that before the death of her mother, her brothers were living separately and she is in a penurious condition, there was no sufficient material to prove the same. That apart, the claim of the petitioner was rejected in the year 2011, however, the petitioner has approached this Court only in the year 2016.

9. In view of the above, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The Regional Director of
Municipal Administration,
O/o. The Regional Director of
Municipal Administration,
Tirunelveli - 2.

2. The Commissioner,
Virudhunagar Municipality,
Virudhunagar District.

+1 CC to M/s.SPL GP (SR-4674 & 4929[F] dated 12/02/2021)

+1 CC to M/s.M.MUTHUGEETAYAN, Advocate (SR-4475[F] dated 11/02/2021

W.P. (MD)No.20999 of 2016

10.02.2021

ES (CO)

TR(16.03.2021) 3P 5C

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