



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD) No.429 of 2016

P.Poomayil

...Petitioner

Vs

1.The Chariman,
TANGEDCO,
Chennai.

2.The Chief Engineer,
Chief Engineer Distribution Circle Metro
Madurai sone,
Madurai.

3.The Executive Engineer,
Madurai Electricity Distribution Circle/Metro
South Zone,
Madurai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in respect of order passed by the second respondent in K.No.004864/414/B1/KO.Nithimanravalaku/2015 dated 31.03.2015 and quash the same and consequently, direct the respondents to provide suitable employment to the petitioner on compassionate ground within stipulated time.

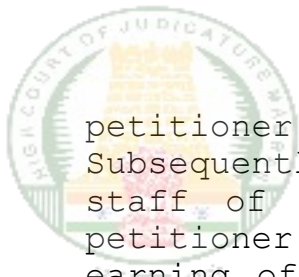
For Petitioner : Mr.S.Chellapandian

For Respondents : Mrs.S.Srimathy
Special Government Pleader
for M/s.T.Sakthi Kumaran
Standing Counsel

O R D E R

This writ petition has been filed to quash the impugned order passed by the second respondent in K.No.004864/414/B1/KO.Nithimanravalaku/2015 dated 31.03.2015 and consequently, to direct the respondents to provide suitable employment to the petitioner on compassionate ground within stipulated time.

2.The case of the petitioner is that her elder brother namely, P.Suresh joined as temporary Mazdoor at the second respondent office and the petitioner and her mother are dependent of the said P. Suresh and he is the sole breadwinner of the family. The



petitioner's brother service was regularized in the year 2010. Subsequently, he completed his probation and he became permanent staff of the second respondent office. In the meanwhile, the petitioner's marriage was solemnized in the year 2011 out of the earning of his brother and further the petitioner's husband is the coolie worker and he could not earn much money for the petitioner's family. While so, the petitioner's brother met with an accident on 31.08.2013, while returning from his office leaving behind the petitioner and her mother.

3. The petitioner further averred that the petitioner's brother died as bachelor and he does not have any legal heir except the petitioner and her mother. Immediately, thereafter the petitioner made an application for compassionate appointment on 30.07.2014 within a period of three years. However, no further action was taken on the representation submitted by the petitioner. Hence, the petitioner filed a writ petition before this Court in W.P(MD) No.34 of 2015 seeking direction to the respondent to consider the petitioner's representation dated 30.07.2014. This court by its order dated 31.03.2015, issued a direction to consider the representation of the petitioner. However, the second respondent rejected the petitioner's claim of compassionate appointment vide order dated 31.03.2015 on the ground that the petitioner is not the dependent on the unmarried deceased brother and she had not produced the legal heir certificate and further, the petitioner is married and she is not entitled for compassionate appointment. Challenging the same, the present writ petition has been filed by the petitioner.

4.The learned counsel for the petitioner submitted that as per G.O.Ms.No.165, Labour and Employment (Q2) Department, dated 30.08.2010, even a married daughter is also entitled for compassionate appointment, due to the death of the kartha of the family. In the present case, the petitioner's brother is the kartha of the family and he maintained his mother and the petitioner and out of his earning, the marriage of the petitioner was solemnized. Hence, the petitioner being the dependent of the deceased brother is entitled for compassionate appointment. Accordingly, he prayed for allowing the writ petition.

5.The learned Special Government Pleader appearing for the respondents would submit that though there are lot of Government orders in respect of the compassionate appointment in various departments, as per the directions of this Court, the Government had framed the consolidated scheme for providing Compassionate appointment vide G.O(Ms) No.18, Labour and Employment (Q2) Department, dated 23.01.2020, wherein all the earlier Government Orders were superseded. As per the said Government Order, particularly the legal heirs/dependants of the deceased Government servant are eligible for compassionate appointment and a married



daughter is not entitled for compassionate appointment. Particularly, when an unmarried brother passed away, his legal heirs are only father and mother and to some extent, the unmarried sister is also entitled for compassionate appointment, provided if she satisfies the scheme provided under the Government order.

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6. In the present case, the petitioner has already married one Palpandi and living separately. Hence, she is not the dependent of the deceased brother. The authority has rightly rejected the claim of the petitioner and the impugned order need not be interfered with in the writ petition.

7. The fact of the present case is not disputed. Admittedly, the petitioner is a married sister of the deceased brother. The crucial issue involved in the present case is that whether a married sister is entitled for compassionate appointment, due to the death of the unmarried brother. The petitioner is not the legal heir of the unmarried brother and the legal heir of the unmarried brother is only the mother and father. Further, on perusal of G.O(MS) No.18, dated 23.01.2020, it reveals that the married daughter of the deceased Government servant is otherwise eligible. In the present case, the sister is not entitled for compassionate appointment, due to the death of unmarried brother. Hence, the order in the writ petition need not be interfered.

8. In view of the above observations, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

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.

+1 CC to Mr.T.SAKTHI KUMARAN, Advocate (SR-1678[F] dated 21/01/2021)

Order made in
W.P. (MD) No.429 of 2016
19.01.2021

VB (25.02.2021) 3P 2C