



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.8253 of 2016

WEB COPY

K.Latha

... Petitioner

Vs.

1.The District Collector,
Villupuram District,
Villupuram.

2.K.Sasikala Muthuselvam

... Respondents

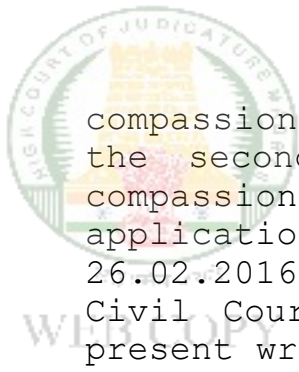
Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of first respondent made in Pa.Mu.A4/574/2014, dated 26.02.2016 and quash the same and consequently direct the first respondent to provide compassionate appointment to the petitioner's son.

For Petitioner	:	Mrs.M.Maria Vinola
For R1	:	Mr.C.Marichelliah Prabhu Additional Government Pleader
For R2	:	No appearance

O R D E R

This Writ Petition has been filed challenging the impugned order passed by the first respondent in Pa.Mu.A4/574/2014, dated 26.02.2016 and to quash the same.

2. The case of the petitioner is that the petitioner's husband was working as Village Administrative Officer and died in harness on 25.09.2012, leaving behind the petitioner and two children viz., Sabarish Selvabalan and Deepika. While he was working at Villupuram District, he developed illegal relationship with one Saroja and the second respondent was born out of the above relationship and the said Saroja is the wife of one Mahavishnu. The Tahsildar, Tiruchendur had issued combined certificate for compassionate appointment through proceedings dated 25.03.2014, by mentioning the name of the petitioner, her children and the name of the second respondent as legal heirs. Apart from that, the petitioner has also filed a suit in O.S.No.41 of 2013 before the District Munsif Court, Tiruchendur and obtained a decree of declaration to the effect that the petitioner, her children and the second respondent are the legal heirs and the family benefits also settled to the four legal heirs equally. While so, the



compassionate appointment to her son viz., Sabarish Selvabalan and the second respondent has also made similar petition seeking compassionate appointment to her. After considering both the applications, the first respondent has rejected the same on 26.02.2016 and directed the parties to approach the competent Civil Court to resolve the dispute. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner is legally wedded wife and she made an application to his son for compassionate appointment. But, without considering the application, the first respondent has rejected the same and as per the decree passed by the Civil Court, the petitioner, her son and the daughter are entitled to get compassionate appointment and the second respondent is entitled to receive the benefits only and not for compassionate appointment. Hence, he prayed for allowing this writ petition.

4. The learned counsel appearing for the second respondent would submit that when there was a disputed question of fact, the authorities cannot decide the issue and the issue has to be decided only by the competent civil Court.

5. Heard the learned counsel for the petitioner, learned counsel for the second respondent and perused the materials available on record.

6. The admitted case of the petitioner is that the petitioner's husband died in the year 2012 and the first wife made an application for compassionate appointment to her son. Immediately, the second respondent has also made an application for compassionate appointment to her. In view of the rival claim, the first respondent has rejected the applications and directed the parties to approach the competent civil Court to resolve the dispute, which cannot be interfered with by this Court. Hence, this Writ Petition is dismissed with liberty to the petitioner to work out the remedy in the manner known to law, as directed in the impugned order. No costs.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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.

To

The District Collector,
Villupuram District,
Villupuram.

+1 CC to SGP (SR-1410[F] dated 20/01/2021)

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KM (10.02.2021) 3P 3C