



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2021

CORAM

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

W.P. (MD) No.1889 of 2017

and

W.M.P. (MD) No.1553 of 2017

WEB COPY

R.Vimala

... Petitioner

Vs

The Assistant Executive Engineer,
Public Works Department,
Water Basin Sub Division No.1,
Thanjavur-7.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order issued by the respondent herein in his proceedings No.Ko.19/Vu.Se.Po.1/2016, dated 06.10.2016 and quash the same and consequently direct the respondent to appoint the petitioner on compassionate grounds in any one of the vacancies as per the Rules for compassionate appointment.

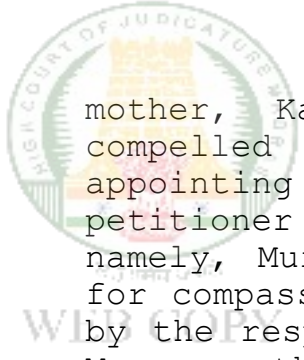
For Petitioner : Mr.C.Jeganathan
for M/s.Veera Associates

For Respondent : Mr.M.Muthugeethayan
Special Government Pleader

O R D E R

This writ petition is filed seeking a direction to the respondent to appoint the petitioner on compassionate grounds.

2.It is the case of the petitioner that the petitioner's father, namely, Ramachandran was working as Works Inspector under the respondent herein. The petitioner's father, initially married one Saroja and the said Saroja passed away. Thereafter, the petitioner's father married one Kamala and through her, two male child was born, namely, Muruganantham and Bharathirajan. The petitioner is the daughter of first wife. The petitioner's father died on 27.05.1997, while he was in service, leaving behind the petitioner, her step mother and two brothers as his legal heirs. Thereafter, the step mother, namely, Kamala, who is the second wife of the petitioner's father, had applied for appointment to the respondent on compassionate grounds, by her representation, dated 20.11.1998. At the time, the respondent herein insisted that all the legal heirs should give 'No Objection Certificate' for receiving the terminal benefits of her father and on 18.01.2001, the step



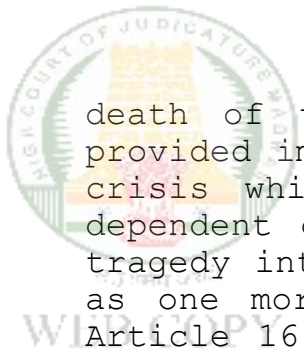
mother, Kamala, has received the benefits. Thereafter, she compelled the petitioner to give 'No Objection Certificate' for appointing her son under compassionate grounds. Accordingly, the petitioner gave 'No Objection Certificate' to her step mother's son, namely, Muruganantham. The said Muruganantham made an application for compassionate appointment and the said application was rejected by the respondent. Challenging the said rejection order, the said Muruganantham filed a writ petition before this Court in W.P.(MD) No.11292 of 2010 and the writ petition was also dismissed. Thereafter, the petitioner pursued with her earlier application submitted on 20.11.1998. However, the respondent rejected the said petitioner's application on the ground that the earlier application made by her step mother's son was rejected. Challenging the same, the petitioner is constrained to move the present writ petition.

3.The learned counsel for the petitioner would submit that the petitioner is the daughter of first wife of the deceased employee and her father died in the year 1997. Immediately thereafter, the petitioner and her step mother submitted the application for compassionate appointment on 20.11.1998 and due to pressure, the petitioner gave 'No Objection' for compassionate appointment of her brother, namely, one Muruganantham. However, the said application was rejected. Since the said application was rejected, the petitioner is entitled to pursue her earlier application submitted on 20.11.1998. Hence, the order impugned in the writ petition is unsustainable one and accordingly, he prayed for allowing this petition.

4. Per contra, the learned Special Government Pleader appearing for the respondent would submit that admittedly, the petitioner is a married daughter. She married one Senthil in the year 1997. Though she claimed that she made the application in the year 1998, she had not pursued her earlier application thereafter. Further, she gave 'No Objection' for compassionate appointment to her brother, namely, Muruganantham and the said application for compassionate appointment was rejected and the said order was challenged before this Court by way of filing a writ petition and that writ petition was also dismissed confirming the order of rejection. Thereafter, the petitioner, by suppressing the fact that she relinquished her rights for compassionate appointment, again, has taken efforts to pursue her earlier application, which is not sustainable one. Moreover, the petitioner is a married daughter and therefore, she is not entitled for compassionate appointment. Hence, he prayed for dismissal of this petition.

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

6.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 appointment on compassionate basis is a concession given by 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.

7. The facts in the present case are not disputed. Already, the petitioner got married. As per the scheme, a married woman is entitled for compassionate appointment, if she otherwise eligible. Therefore, the petitioner is not established her entitlement for compassionate appointment, unless other grounds are raised in the present case. The petitioner raised only one ground that the petitioner is entitled to pursue her earlier application submitted in the year 1998. It is also relevant to note that the petitioner has relinquished her rights by making 'No Objection Certificate' to her brother. The application made by her brother was also rejected and the same was confirmed by this Court. Hence, the petitioner is not entitled for compassionate appointment. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

The Assistant Executive Engineer,
Public Works Department,
Water Basin Sub Division No.1,
Thanjavur-7.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-1725[F] dated 21/01/2021)

+1 CC to GP (SR-1364[F] dated 20/01/2021)

W.P. (MD) No.1889 of 2017
19.01.2021

(SJ)

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