



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2021

CORAM:

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

W.P. (MD)No.20479 of 2017

and

W.M.P. (MD) .No.16748 of 2017

A.Jasmine

... Petitioner

Vs.

1.The Superintendent of Police,
O/o.the Superintendent of Police,
Tirunelveli District.

2.The Tahsildar,
Veerakeralamputhur,
Tirunelveli District.

3.The Deputy Superintendent of Police,
O/o. the Deputy Superintendent of Police,
Sankarankovil,
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 pertaining to the impugned order in Na.Ka.No.A5/63897/2012, dated 31.03.2016 on the file of the Respondent No.1 and quash the same as illegal and consequently for a direction, directing the Respondent No.1 to provide compassionate appointment to the petitioner in any suitable post within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.M.Muthugeethaiyan
Special Government Pleader

O R D E R

This writ petition is filed challenging the impugned order passed by the first respondent in Na.Ka.No.A5/63897/2012, dated 31.03.2016 and to quash the same and consequently, to direct the first respondent to provide compassionate appointment to the petitioner.



2. The case of the petitioner is that the petitioner's husband, namely, Arul Raj Backiaseelan, who was working as Police Constable died in harness on 03.10.2012. After the demise of the petitioner's husband, the petitioner and her family members are living in penury condition without any financial assistance. Therefore, the petitioner made an application seeking appointment on compassionate ground in the year 2012 itself. Thereafter the petitioner got remarried to one Arulkandhakumar on 24.02.2014. However, the said representation was rejected by the first respondent vide proceedings, dated 31.03.2016, in Na.Ka.No.A5/63897/2012, on the ground that the petitioner was remarried and she has not applied before the date of remarriage. Challenging the said proceedings, the petitioner has filed the present writ petition.

4. The learned counsel appearing for the petitioner submits that though the petitioner made application for compassionate appointment in the year 2012 itself, ie., prior to her remarriage, the impugned order passed by the first respondent rejecting her application on the ground that the petitioner has not applied before the date of remarriage reveals total non-application of mind, which requires interference at the hands of this Court. Accordingly, he prays for allowing this writ petition.

5. Per contra, learned Special Government Pleader appearing for the respondents would submit that the petitioner's husband died while in service on 03.10.2012 and the petitioner has submitted her application, and thereafter she got remarried. He further submitted that as per G.O.Ms.No.18, (Labour and Employment (Q1) Department, dated 23.01.2020, which Government Order was issued in consonance with the decisions of this Court, as could be seen from the Government Orders, the remarried wife of the deceased employee is not eligible to get the compassionate appointment. Accordingly, the representation was rejected in proper perspective, which requires no interference.

6. Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

7. From the conceptual proposition of law laid down by the Full Bench of this Court in ***W.P. (MD)Nos.7016 of 2011, etc. Batch***, dated 11.03.2020, it is implicitly clear that the appointment on compassionate basis should be strictly be in accordance with the Government Orders/the Scheme framed for the said purpose by the employer. Further, from the above preposition of law, it is evident that 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.

8. It should not be lost sight of that appointments to public offices have to comply with the requirements of Articles 14 and 16 of the Constitution of India. Compassionate appointment is in the nature of an exception to the ordinary norm of allowing equality of opportunity to other eligible persons to compete for public employment.

9. Considering the facts and circumstances of the case and based on the guidelines mandated in G.O.Ms.No.18(Labour and Employment (Q1) Department, dated 23.01.2020, particularly, in sub clause(v) (b) described under '**Family to be in indigent circumstances to be eligible under compassionate ground appointment**', wherein it is stated that the compassionate ground appointment will not be considered for the wife of the deceased Government Servant, who applied for appointment for herself is remarried, this Court is not inclined to grant the relief sought for by the petitioner.

10. Accordingly, this Writ Petition, being devoid of merits, is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-)

// 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.

To

1.The Superintendent of Police,
O/o.the Superintendent of Police,
Tirunelveli District.



2.The Tahsildar,
Veerakeralamputhur,
Tirunelveli District.

3.The Deputy Superintendent of Police,
O/o. the Deputy Superintendent of Police,
Sankarankovil,
Tirunelveli District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-2239[F] dated
27/01/2021)

**W.P. (MD) .No.20479 of 2017
25.01.2021**

SSS(CO)
TR(10.02.2021) 4P 5C