



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.23517 of 2017

and

W.M.P. (MD)No.19786 of 2017

Esakki Ammal

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Sub Collector,
Cheran Mahadevi,
Tirunelveli District.

3.The Tahsildar,
Ambasamuthiram Taluk,
Ambasamuthiram,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the entire records, relating to the impugned order passed by the 1st respondent in Na.Ka.No.A4/31023/2014, dated 27.11.2015 and to quash the same as arbitrary and consequently to direct the 1st respondent to provide the compassionate appointment to the petitioner's son based on his educational qualification within the time limit that may be stipulated by this Court.

For Petitioner : Mr.M.S.Jeyakarthik

For Respondents : Mr.M.Muruganantham,
Additional Government Pleader

ORDER

The case of the petitioner is that the petitioner's husband worked as Village Assistant in Thiru Viruthan Pulli Part-2, Ambasamuthiram Taluk. The petitioner died on 19.05.2012, while he was in service. Thereafter, the petitioner's son namely., Venumalai made an application before the first respondent on



23.06.2014 seeking compassionate appointment. The first respondent directed the second respondent to file a report regarding compassionate appointment. The second respondent who in turn directed the third respondent to conduct an enquiry and file a report regarding compassionate appointment. The third respondent conducted enquiry and filed a report recommending the petitioner's son application for compassionate appointment. The second respondent in turn forwarded the same to the first respondent. The first respondent by the impugned order rejected the application of the petitioner's son on the ground that the petitioner was owning vast of extent of agricultural land, house and further the petitioner rented out 6 shops and out of four shops, the petitioner received a sum of Rs.2,100/- as rent. Questioning the same, this writ petition has been filed.

2.The learned counsel for the petitioner submitted that the the property owned by the petitioner is not disputed and the petitioner's husband died due to cancer and for his treatment huge amount was spent. It is further submitted that the petitioner could not run her family by receiving rent a sum of Rs.2,100/- from the shops. Even as per G.O.(Ms.) No.115, Labour and Employment Department, dated 16.07.1993, the concerned Tahsildar arrived conclusion the income is not sufficient to sustain the family, the compassionate appointment can be granted. Accordingly, he prays for allowing the writ petition.

3.Per contra, The learned Additional Government Pleader appearing for the respondents submitted that the petitioner is having half share of the land in Survey No.189/1 situated at Chokkalingapuram to an extent of 0.25.5 Hectares. The petitioner's family is having title over the property in S.Nos.136/2, 147/1, 931/ and 20/12A. The petitioner had constructed six shops in S.No.20/12A in which, she had let out four shops each for rend at the rate of Rs.700/- per month. He further submitted that the Government in their Letter No.18274/N1/823 Labour and Employment Department, dated 09.07.1982 have a issued guidelines to determine the indigent circumstances of the family taking into consideration of the other source of income like house rent/land etc. Therefore, the second respondent observed that the deceased family was having land worth about Rs.12,30,000/- and house property worth about Rs.4,00,000/-. Therefore, the second respondent recommended the first respondent to reject the application of the petitioner's son. Hence, the first respondent passed the impugned order. Therefore, he prays for dismissal of this writ petition.

4.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.



5.The facts in the present case are not disputed. Admittedly, the petitioner's husband passed away due to harness. On production of the certificate, it is seen that the petitioner is having vast extent of agricultural land in the village and owning a house. The petitioner constructed six shops and out of which four shops were rented out. The petitioner is receiving a sum of Rs.2,100/- as rent per month. On a perusal of the G.O.(Ms.) No.115, dated 16.07.1993, it is seen that if the income of the petitioner is not sufficient to run the family, the petitioner will be eligible for compassionate appointment. However, in the present case, apart receiving rent from the shops, the petitioner is also owning a house and vast extent of agricultural land. Hence, this Court is of the opinion that the petitioner does not suffer from financially.

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.In view of the above, this Court is of the view that no Mandamus can be issued and accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// 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

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+1 CC to SPL GP (SR-2039[F] dated 25/01/2021)

W.P (MD) No.23517 of 2017
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VB (08.02.2021) 4P 5C