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W.P.No.2525 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.6.2022

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.2525 of 2020

M.Revathi

...

Petitioner

Vs.

The District Collector
Thiruvannamalai District,
Thiruvannamalai.

...

Respondent

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the entire records in respect of the order passed by the respondent in Na.Ka.No. 17137/2016/Pa.A3 dated 21.11.2017 and consequential order in Na.Ka.No. 17137/2016/ Pa.A3 dated 15.11.2018 and quash the same consequently direct the respondent to appoint the petitioner under compassionate appointment.

For Petitioner

: Mr.D.Rajagopal

For Respondent

: Mr.T.Arun Kumar, A.G.P.

ORDER

According to the petitioner, petitioner's sister M.Hemalatha was appointed as a Panchayat Secretary on 2.9.2011 by the proceedings of the District Collector. On 15.5.2014 petitioner's sister expired while in service.



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The petitioner submitted an application to the respondent on 2.11.2015 for appointment on compassionate ground along with the relevant certificates.

The respondent by proceedings dated 18.4.2016 in Na.Ka.No.1122/2016 passed an order by rejecting the claim of the petitioner by stating that the petitioner is not eligible for compassionate appointment since her sister expired one year prior to the G.O.Ms.No.102 dated 13.7.2015. The aforesaid rejection order has been challenged before this Court by the petitioner in W.P.No.42273 of 2016 and this Court by its order dated 31.8.2017 observed as follows:

"This Court is of the view that the deceased employee expired on 15.05.2014 and even before submission of the application by the writ petitioner, the G.O.(Ms) No.102, Rural Development and Panchayat Raj (E5) Department dated 13.07.2015, was issued, extending the benefit of compassionate appointment to the Panchayat Secretary and the application was filed by the writ petitioner on 02.11.2015 after implementing the scheme. The respondents cannot say that the application need not be considered based on the Government Order issued in G.O. (Ms) No.102 dated 13.07.2015. Thus the writ petitioner has got over the right to avail the benefit of appointment on compassionate ground, which is extended to the post of Panchayat Secretary by the said Government Order. Eligibility criteria in respect of the date of death has not been stipulated in the Government Order. In view of



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this fact, the order impugned is liable to be scrapped.

7. Accordingly, the order impugned in this writ petition passed by the second respondent in proceeding Na.Ka.No.1122/2016/Pa.Aa3 dated 18.04.2016 is quashed and the respondents are directed to re-consider the case of the writ petitioner for compassionate appointment on merits and in accordance with law and pass orders within a period of 12 weeks from the date of receipt of a copy of this order. Writ petition stands allowed. No costs. Consequently connected miscellaneous petition is closed.

Challenging the order passed by the Writ Court, the respondent herein filed an appeal on 19.12.2017 in W.A.Sr.No.100833 of 2017 along with condone delay petition assailing the said order. The Division Bench of this Court dismissed the appeal and confirmed the order of the Writ Court. In the meantime, the petitioner has filed contempt petition and the same was dismissed by holding that the respondent has not committed any contempt, since as per the direction of this Court, the claim of the writ petitioner was reconsidered and reply was issued in proceedings dated 21.11.2017. Challenging the said order, the petitioner has preferred the present writ petition before this Court.

2. Counter affidavit has been filed by the sole respondent



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wherein it is stated that the Government issued G.O.Ms.No.102, Rural Development and Panchayat Raj Department thereby providing appointment on compassionate ground to the legal heir of the deceased Government servants who died while in service. In the instant case, the deceased Government servant died on 15.5.2014 prior to the issuance of the aforesaid G.O. Further, the petitioner applied for compassionate appointment on 2.11.2015 i.e after more than one year from the date of death of the deceased. Therefore, after careful perusal of the said G.O., the claim of the petitioner for compassionate appointment was rejected by the respondent.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent and perused the materials available on record.

4. The main issue involved in this writ petition is that whether the respondent passed the impugned order by taking note of the order passed by the Writ Court in W.P.No.42273 of 2016 dated 31.8.2017 and the same was confirmed in the Writ Appeal. Originally, the respondent passed the rejection order on 5.11.2015 by holding that the petitioner is not entitled for compassionate appointment in view of the G.O.Ms.No.102 dated



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13.7.2015. Writ petition filed by the petitioner in W.P.No.42273 of 2016 challenging the rejection order passed by the respondent was allowed by this Court on 31.8.2017 and the said order was confirmed in the Writ appeal filed by the respondent.

5. A perusal of the impugned order shows that the respondent has not specifically assigned any reason for rejection of the application for compassionate appointment. In the counter affidavit filed by the respondent, the respondent denied the averments of the petitioner and stated that the first application of the petitioner dated 4.11.2015 was rejected by the District Collector, Tiruvannamalai District vide letter NO.PA3/16257/2015 dated 5.11.2015 that was not challenged before this Court. It is specific case of the respondent that G.O.Ms.No.102 was issued on 13.7.2015 and the said order shall take effect from the date of issuance of the order. Whereas the deceased M.Hemalatha died on 15.5.2014 , the petitioner cannot claim appointment on compassionate ground based on the G.O.Ms.No.102.

6. A perusal of the order passed by this Court on 31.8.2017 shows that this Court held that the reason assigned by the respondent for rejection of the application is untenable and the said order was set aside remitted



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back to the authority to consider afresh and pass appropriate orders. The very same reason has been stated in the present impugned order passed by the respondent by simply stating that as per G.O.Ms.No.102, the petitioner is not entitled for compassionate appointment. Firstly, the aforesaid impugned order is not sustainable on the ground that there is no reason assigned in the said G.O. and secondly, the respondent has not considered the order of the Writ Court in W.P.No.42273 of 2016 dated 31.8.2017 and the same was confirmed by the Division Bench of this Court in the Writ appeal. Therefore, this Court safely come to the conclusion that the impugned order passed by the respondent is liable to be quashed.

7. Accordingly, the impugned orders passed by the respondent dated 21.11.2017 and dated 15.11.2018 are quashed and remitted to the respondent to consider afresh and pass appropriate orders by taking note of the orders passed by this Court in W.P.No.42273 of 2016 and W.A.No.2506 of 2018 dated 31.8.2017 and 13.11.2018. The said exercise shall be completed within a period of 12 weeks from the date of receipt of copy of the order.

8. The writ petition is allowed with the above directions. No Costs.



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Speaking / Non-Speaking order
Index:Yes/No
vaan
To
The District Collector,
Thiruvannamalai District, Thiruvannamalai.

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D.KRISHNAKUMAR, J.

The writ petition was disposed of by this Court on 15.06.2022. However, the matter has been listed today under the caption “For Clarification” at the instance of the learned Additional Government Pleader for the respondents.

2. After hearing the learned counsel for the parties concerned, this Court is of the view that no further orders are required in this writ petition.

21.06.2022



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