



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.36887 OF 2015

V.Sundari

... Petitioner

Vs.

1. The District Educational Officer,
Cuddalore-607 001.
2. The District Primary Education Officer,
O/o.The Primary Education,
Cuddalore-607 001.
3. The Directorate of School Education,
Madras-600 006.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the proceedings of the first respondent in Na.Ka.No.3538/A1/2009 dated 04.08.2015 and quash the same and consequently direct the respondents to provide appointment to the petitioner on compassionate ground.

For Petitioner : Ms.Sasikala A. Ramadoss

For Respondents : Mr.T.Chezhiyan, AGP

O R D E R

Heard the learned counsel on both sides.

2. The petitioner herein is the daughter of one Dhandapani, who while serving as an Office Assistant in the Panchayat Union Primary School, Karunguzhi died in harness on 09.03.2000. She is one of the legal heirs of Dhandapani, apart from her mother and four sisters. On the death of her father, she had made an



application seeking for appointment on compassionate grounds on 26.12.2001, which is within the period prescribed for making the application. The application was kept in cold storage for quite sometime and ultimately by the impugned order dated 04.08.2015, the application came to be rejected. Challenging the same, the present Writ Petition has been filed.

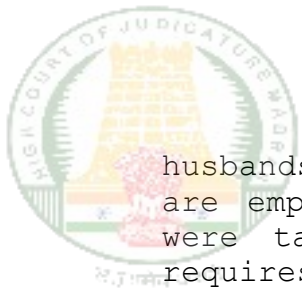
3. The learned counsel for the petitioner submitted that at the time of her father's death, the entire family was in indigent circumstances and therefore with the consent of other legal heirs, she made an application seeking for compassionate appointment. After about three years of the application, she got married on 27.08.2004. In view of this circumstance, the petitioner is entitled for compassionate appointment.

4. The learned Special Government Pleader placed reliance on the averments made in the counter affidavit and submitted that, while scrutinizing the petitioner's application, it was found that the petitioner's elder sister got married in 1990 and her spouse was working in Government Department; petitioner's second elder sister got married in 1995 and her spouse was working in Government Department; the petitioner herein got married in the year 2004 and her spouse was working in Government Department; the petitioner's younger sister got married in 2009 and her spouse was working in Navy; and petitioner's last sister got married in 2010 and her spouse was working in Government Department. In this background, the learned Special Government Pleader submitted that, the family of the deceased employee is not in indigent circumstances. Since the scheme of compassionate appointment is only to assist the indigent condition of the deceased family, the petitioner is not entitled for the claim.

5. I am not in agreement with the submissions of the respondents.

6. The petitioner's father died on 09.03.2000 and within a reasonable time, the petitioner had filed an application on 26.12.2001. At this point of time, the petitioner was unmarried. When the application was kept pending by the respondents, owing to their own fault, the petitioner got married on 27.08.2004. In this background, the respondents may not be justified in quoting the petitioner's marriage as an impediment since her husband is claimed to be employed and thereby deny her the benefit of compassionate appointment.

7. Furthermore, the reference of the employment of the petitioner's sisters' husbands are also not justifiable. It is needless to point out that in the Indian Customary System of Marriage, the daughters usually reside in the domicile of their



husbands and merely because the petitioner's sisters' husbands are employed in Government jobs cannot be construed that they were taking care of the petitioner also. Consequently, it requires to be held that the petitioner herein, since was not dependent on the income of her sisters' families and did not have their own independent income, could have been in indigent circumstances, at that point of time.

8. At this juncture, the learned Special Government Pleader produced a copy of the written instructions dated 30.03.2022 issued by the District Educational Officer, which evidences that on enquiry, it was found that the petitioner herein is unemployed and that her husband was in a temporary assignment as Public Welfare Worker. This employment of her husband is the lowest grade and that too, not on permanent employment. As such, the petitioner is now deemed to be in indigent circumstances and therefore would be entitled for appointment on compassionate ground.

9. For all the foregoing reasons, the impugned order passed by the first respondent in Na.Ka.No.3538/A1/2-09 dated 04.08.2015, is quashed. Consequently, there shall be a direction to the respondents to issue an appropriate appointment order, appointing the petitioner herein on compassionate grounds, to any post to which she may be qualified. The respondents shall pass such orders of compassionate appointment, atleast within a period of four weeks from the date of receipt of a copy of this order. The Writ Petition stands allowed. There shall be no orders as to costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

DP

To

1. The District Educational Officer,
Cuddalore-607 001.
2. The District Primary Education Officer,
O/o.The Primary Education,
Cuddalore-607 001.



3. The Directorate of School Education,
Madras-600 006.

+1cc to M/s.Sasikala A. Ramadoss, Advocate, S.R.No.24987

WEB COPY

+1cc to the Government Pleader, S.R.No.25756

W.P.No.36887 of 2015

MG(CO)
RLP(18/04/2022)