



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.03.2022

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.16130 of 2020

E.Suganthi, W/o Late Elangovan ... Petitioner

Vs.

The Divisional Engineer,
High Way Department (C & M),
Nagapattinam. ... Respondent

PRAYER: Writ petition filed under Section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent pertaining to the impugned order Ku.No.1479/2019/A4 dated 23.07.2020 and to quash the same as illegal arbitrary and consequently direct the respondent to give employment to the petitioner's son.

For Petitioner : Mr.R.Subramanian

For respondent : Mr.V.Manoharan, Addl.Govt.Pleader

ORDER

This writ petition has been filed seeking to issue a Writ of Certiorarified Mandamus, quashing impugned order passed by respondent dated 23.07.2020 and consequently direct the respondent to give employment to the petitioner's son.

2. The case of the petitioner in brief:

The petitioner's husband Elangovan was working under the respondent and while he was in service died on 21.01.2012, due to illness, leaving behind the petitioner, son and daughter as his legal heirs. The petitioner gave representation to the respondent seeking employment to her and it was not considered till date. Since the petitioner is not in a position to do any work, due to her bad health condition, he gave representation on 30.07.2019 before the respondents to give employment to her son namely Ganeshkumar, instead of her, on the basis of her earlier application. The petitioner and her daughter have also given no objection for the same. The respondent passed order rejecting the request of the petitioner that, after seven year of the death of the employee, the request cannot be entertained. Hence



this writ petition.

3. The learned counsel appearing for the petitioner submitted that immediately after death of the petitioner's husband, she gave representation seeking employment and it was placed under consideration as No.94 in the seniority list. Therefore, the present representation should not be considered as a fresh one and hence, the impugned order may be quashed and the respondent may be directed to give employment to the petitioner's son in the place of petitioner.

4. The learned Additional Government Pleader appearing for the respondent submitted that, as per G.O.Ms.No.18 dated 23.01.2020, when a person who gave application is alive, alternative application seeking employment to other legal heir of the deceased, cannot be entertained. Therefore, the claim of the petitioner cannot be entertained.

5. It is pertinent to note in the Government Order in G.O.Ms. No.18 dated 23.01.2020, with regard to the alternative application, it has been held thus.

Alternative Application: If the applicant (legal heir of deceased Government Servant) died after applying for compassionate ground appointment, an alternative application may be accepted from the another legal heir of the deceased Government Servant, subject to conditions prescribed for compassionate ground appointment.

6. Therefore, in the light of the above Government Order, the respondent has rightly rejected the subsequent application filed by the petitioner. However, since the petitioner's earlier application was in consideration of the respondent as Sl.No.94 of the seniority list, the respondent is directed to consider the same and pass orders on its own merits, in accordance with law.

7. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

mst



To

The Divisional Engineer,
High Way Department (C & M),
Nagapattinam

+1cc to the Government Pleader, S.R.No.17408

W.P.No.16130 of 2020

MT (CO)
SB (07/04/2022)