



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2022

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.17580 of 2017

V.J.Leelapriya

... Petitioner

Vs.

1.The Additional Chief Secretary/
Commissioner Revenue Administration,
Disaster Management and Mitigation,
Ezhilagam Building, Chepauk,
Chennai 600 005.

2.The District Collector,
Office of the District Collector,
Thiruvallur,
Thiruvallur District.

3.The Tahsildar,
Office of the Tahsildar,
Uthukottai Taluk,
Thiruvallur, Thiruvallur District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent and to quash the impugned order dated 26.05.2017 in Na.Ka.No.A1/18896/2013 and to direct the second respondent to provide employment to the petitioner on compassionate ground.

For petitioner : Mr.B.Vijayakumar

For Respondents : Mr.G.Ameedius,
Government Advocate

ORDER

This writ petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent and to quash the impugned order dated 26.05.2017 in Na.Ka.No.A1/18896/2013 and to direct the second respondent to provide employment to the petitioner on compassionate ground.



WEB COPY

2. The case of the petitioner is as follows:

(i) The petitioner's father Mr. Janardhanam was working as a Village Administrative Officer at Thimmaboopalapuram Village, Pennalurpettai Pirka, Uthukottai Taluk, Thiruvallur District. On 17.04.2008, unfortunately, while in service, the father of the petitioner died. At that time, he left behind his wife, two daughters and one son.

(ii) According to the petitioner, during the life time of her father, her marriage was already fixed and subsequently, she also got married on 23.05.2008. According to the petitioner, on 25.08.2008, her mother made an application to the third respondent seeking compassionate appointment for the petitioner well within the prescribed time limit in terms of the scheme of compassionate appointment. According to the petitioner, she has Higher Secondary qualification. However, her application was not considered on the ground that the petitioner was already married and was not entitled to be considered for compassionate appointment.

(iii) Thereafter, the petitioner's mother made an application for her son Koteeswaran, brother of the petitioner, on 13.07.2009. The application was being processed and the same was under active consideration by the authority concerned, due to electrocution, the brother of the petitioner died on 05.05.2014. As the facts would disclose that from 2009 till his death on 05.05.2014, several communications being exchanged between the authority concerned and the petitioner family for submission of various documents, towards consideration of the request for compassionate appointment to the petitioner's brother.

(iv) In view of the unfortunate death of her brother during consideration of his appointment on compassionate ground, further application was submitted to the authority concerned seeking compassionate appointment for the petitioner herein. However, the second application made by the petitioner was rejected on 26.05.2017, on the ground that there was no provision for grant of compassionate appointment to alternative legal heir. Challenging the same, the petitioner is before this Court.

3. Mr. G. Amedius, learned Government Advocate, appeared for the respondents. He would submit that the authority has taken a decision on the basis of various orders and instructions issued by the Government on the subject matter.

4. This Court considered the facts and the submission of the learned counsel for the rival parties.



5. In regard to the earlier rejection of the petitioner's claim that she was married and therefore not entitled to seek compassionate appointment, a reference ought to be made to the latest G.O.(Ms).No.18, Labour and Employment (Q1) Department, dated 23.01.2020. In terms of the G.O., there is no bar for consideration of married daughter for compassionate appointment. In the face of the said G.O., the original rejection of the petitioner, cannot therefore be countenanced in law and on facts.

6. Further, the present rejection on the ground that there is no provision for grant of compassionate appointment to alternative legal heir is also cannot be countenanced, in view of the scheme framed by the Government in the above said Government Order. The basis for rejection of the petitioner's claim therefore cannot be sustained and the impugned order is liable to be interfered with. On behalf of the respondents, no material has been produced to show that in the event of the death of one claimant in the family during consideration, alternative legal heir cannot claim for compassionate appointment. In the absence of any instruction, the rejection is unfounded and invalid. Even otherwise, such reasoning is opposed to fair play, good conscience and justice.

7. For the above said reasons, the impugned order dated 26.05.2017 in Na.Ka.No.A1/18896/2013, is hereby set aside.

8. The respondents are directed to consider the claim of the petitioner afresh on its merits and in the event of finding the family in indigent circumstances, a decision may be taken with due sympathy and appreciation.

9. The second and third respondents are directed to pass appropriate orders as indicated above, within a period of four weeks from the date of receipt of a copy of this order.

10. This writ petition stands allowed accordingly. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

gsk



To

1.The Additional Chief Secretary/
Commissioner Revenue Administration,
Disaster Management and Mitigation,
Ezhilagam Building, Chepauk,
Chennai 600 005.

2.The District Collector,
Office of the District Collector,
Thiruvallur, Thiruvallur District.

3.The Tahsildar,
Office of the Tahsildar,
Uthukottai Taluk,
Thiruvallur, Thiruvallur District.

+1cc to Mr.B.Vijayakumar, Advocate SR.No.25540

+1cc to Government Pleader SR.No.26161

W.P.No.17580 of 2017

SJ(CO)
GMY(22/04/2022)