



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 05.04.2022**

**CORAM**

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**

**W.P. (MD) Nos. 4230 of 2020**

R.Vijayarani

... Petitioner

Vs.

1. The Superintendent of Police,  
Office of the Superintendent Officer,  
Ramanathapuram District.

2. The Deputy Inspector General of Police,  
Ramanathapuram District.

3. The Principal Secretary to Government,  
Labour and Employment Department,  
Fort St.George,  
Chennai - 600 009.

4. The Principal Secretary to Government,  
Personnel and Administrative Reforms Department,  
Fort St.George,  
Chennai - 600 009.

... Respondents

(R3 and R4 are suo motu impleaded vide Court order dated 25.02.2022 in W.P. (MD) No. 4230 of 2020 by SMSJ)

**PRAYER :** Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent in Na.Ka.No.A4/27109/2017 dated 29.11.2017 and quash the same as unconstitutional, illegal and unlawful and further direct the respondents to provide employment to the petitioner's son under compassionate ground within a time frame.

|                |   |                               |
|----------------|---|-------------------------------|
| For Petitioner | : | Mr.A.Ramesh                   |
| For Respondent | : | Mr.Veera Kathiravan           |
|                |   | Additional Advocate General   |
|                |   | Assisted by Mr.D.Sadiq Raja   |
|                |   | Additional Government Pleader |

**O R D E R**

The order of rejection rejecting the claim of the writ petitioner for compassionate appointment is under challenge in the present Writ Petition.

2. The petitioner's husband late C.Ramanathan was working as Senior Grade Police Constable in Thiruvadanai Police Station and he died on 01.04.2007 while he was in service. The petitioner states



that the family was in indigent circumstances on account of sudden death of the husband of the writ petitioner. The petitioner approached the first respondent for providing job on 18.09.2009. However, the case of the petitioner was not considered as she did not possess the requisite qualification for appointment. The son of the petitioner was a minor during the relevant point of time and therefore, he is not eligible for appointment on compassionate ground. On attaining the age of majority, the petitioner submitted an application to provide appointment to her son and by that time, 11 years lapsed from the date of death of the deceased employee. Therefore, the Authorities have rejected the application on the ground that the application itself was filed after a lapse of 11 years from the date of death of the deceased employee and therefore, the scheme cannot be extended to the family of the writ petitioner.

3. The learned counsel for the petitioner contended that the application was filed in time by the petitioner and it was not considered due to the fact that the petitioner was not qualified. Immediately another application was filed on behalf of the son of the petitioner, however, the son was minor and therefore, on attaining the age of majority, the appointment is to be provided.

4. The scheme of compassionate appointment is a concession and appointment can never be claimed as a matter of right. The scheme is to be implemented strictly in accordance with the terms and conditions. The penurious circumstances arose on account of sudden death of the employee is to be verified. The son of the petitioner became eligible after a lapse of many years and therefore, the application submitted on behalf of the son of the petitioner was rejected on the ground that it was submitted after a lapse of 11 years. The deceased employee died on 01.04.2007 and already 15 years lapsed. Therefore, the appointment cannot be given after such a long time on compassionate ground.

5. The learned Additional Advocate General appearing on behalf of the respondents also contended that the scheme is implemented in accordance with the terms and conditions and the indigent circumstances are also assessed. The indigent circumstances are assessed based on various factors and therefore, only if the terms and conditions are complied with, then alone the benefit is extended, but not otherwise.

6. The learned Additional Advocate General furnished the copy of the letter dated 15.03.2022 issued by the Labour Welfare and Skill Development Department, wherein, the conditions for assessment of indigent circumstances are elaborately stated. It is stated clearly that the family of the deceased Government servant should be in a financial crisis or destitution. This being the pre-requisite condition for considering the case on compassionate ground, the question of method of assessment arises.

7. The learned Additional Advocate General made a submission that the assessments are to be made strictly by conducting a



thorough enquiry. The Bank Account Statements and other sources of income with reference to Aadhar Card and other details are to be verified for the purpose of assessing the annual income of the family so as to extend the benefit of scheme of compassionate appointment. In order to avoid abuse of the scheme of compassionate appointment, such scrutiny of indigent circumstances became imminent.

8. Equal opportunity in public employment is a constitutional mandate. All appointments are to be made strictly under the constitutional scheme and by providing equal opportunity to the eligible candidates who are all aspiring to secure public employment. In the event of expanding the scope of scheme of compassionate appointment, the right of all other eligible candidates on merits are infringed. Therefore, the scheme of compassionate appointment itself is to be restricted by providing appointment only to the deserving families and any misuse or abuse of the scheme must be seriously viewed. In the event of expanding the scope, it will affect the constitutional principles and principles of the equal opportunity in public employment. This exactly is the reason why the Hon'ble Supreme Court of India recently in the case of **Union of India and others vs. Amrita Sinha** made an observation as follows:

*"The monthly pension which was payable to the respondent was required to be taken into account in the award of merit points. The Tribunal, however, came to the conclusion that pension is paid for past service rendered by the employee and, hence, denial of compassionate appointment on that basis was not justifiable. This reasoning of the Tribunal is fallacious. Undoubtedly, pension is not an act of bounty, but is towards the service which has been rendered by an employee. However, in evaluating a claim for compassionate appointment, it is open to the authorities to evaluate the financial position of the family upon the death while in service. Compassionate appointment is not a vested right. It is provided in order to enable a family to tide over a financial crisis caused by the death of its wage-earner while in service. If the scheme requires that the family pension must be taken into account in evaluating the merits an application, it has to be followed."*

9. The scope of the scheme of compassionate appointment has been considered by the Hon'ble Supreme Court of India in the case of **State of Uttar Pradesh and others Vs. Premalatha** reported in **2022 (1) SCC 30**. The Hon'ble Supreme Court again emphasized that "equal opportunity should be provided to all aspirants as mandated under Article 16 of the Constitution of India. However, the



appointment on compassionate ground offered to a dependent of the deceased employee is an exemption to the said norms. The compassionate ground is a concession and not a right". However, the appointment on compassionate ground can never be claimed as a matter of right.

10. The scheme is the policy decision of the Government. The Court need not interfere with reference to the ceiling fixed by the Government. However, such scheme and its terms and conditions should not violate or infringe the constitutional rights of other citizens who all are longing to secure public employment through open competitive process. Therefore, the special scheme which is in violative of Articles 14 and 16 is to be extended only for the deserving families as exception. If the exception exceeds, it will result in infringement of right of the other citizens. Thus, the Government must ensure that all efforts are taken to implement the scheme in accordance with the constitutional principles and to provide appointment on compassionate ground to the deserving families who are all in destitution.

11. Regarding assessment of income, the procedures are to be circulated to the Competent Authorities. The procedure of scrutinization of the annual income must be strictly followed to ensure that the terms and conditions of the scheme are complied with.

12. In view of the fact that the petitioner in this case submitted an application to provide employment to her son after 11 years and already 15 years lapsed from the date of death of the deceased employee, the scheme cannot be extended at this length of time in view of the terms and conditions of the scheme itself and also based on legal principles.

13. Accordingly, this Writ Petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (Writ)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Vji

To

1. The Superintendent of Police,  
Office of the Superintendent Officer,  
Ramanathapuram District.



2. The Deputy Inspector General of Police,  
Ramanathapuram District.

3. The Principal Secretary to Government,  
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+1 CC to M/s.A. RAMESH, Advocate ( SR-16580[F] dated  
05/04/2022 )

+1 CC to M/s.SPL.GP ( SR-17016[F] dated 06/04/2022 )

W.P. (MD) Nos. 4230 of 2020  
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AM(CO)

KB(06.05.2022) 5P 7C