

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**DATED: 13.09.2022****CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****W.P.(MD)No.12064 of 2022**

S.Tamilarasi

... Petitioner

Vs.

1. The Chief Educational Officer (CEO),
Ramanathapuram District,
Ramanathapuram – 623 528.

2. The Head Master,
S.S.A.M.Government Higher Secondary School
Thiruppullani – 623 532,
Ramanathapuram District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in connection with the impugned order passed by him vide his proceedings NA.KA.No. 8667/A1/2021 dated 19.04.2022 and quash it illegal and arbitrary and consequently to direct the respondents to issue Compassionate Ground Appointment Order to the petitioner within the time limit stipulated by this Court.

For Petitioner : Mr.D.Selvanayagam

For Respondents: Mr.S.Shaji Bino,
Special Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The writ petitioner's brother S.Sundara Moorthy was working as P.G. Assistant in the second respondent school and he died in harness on 11.03.2018. The petitioner who is his unmarried sister was also depending on him. She applied for compassionate appointment. The petitioner's request was not considered. Hence she filed W.P.(MD)No.1262 of 2020. Vide order dated 27.01.2021, the petitioner's request was ordered to be considered on merits and in accordance with law. Pursuant to the aforesaid direction, the first respondent passed the impugned order dated 13.10.2021 rejecting the petitioner's request. The ground for rejection was that the petitioner did not figure in the legal heir certificate. Questioning the same, the petitioner filed W.P.(MD)No.21170 of 2021. Vide order dated 10.12.2021 the writ petition was allowed and the matter was remitted to the first respondent with the following direction:-

“ 4. The learned Government Advocate appearing for the first respondent fairly submits that no doubt, as per G.O.Ms.No.18, Labour & Employment Dept., dated 23.01.2020, an unmarried sister can be considered as legal heir. However, the petitioner did not furnish the combined certificate for compassionate appointment, while submitting her application, but, she furnished the said certificate only on 30.11.2021. Anyhow, the first respondent is ready to reconsider the case of the petitioner based on the certificate produced by her.

5. In view of the rival submissions made, the writ petition is allowed by setting aside the impugned order dated 13.10.2021 and the matter is remitted back to the first respondent to consider the case of the petitioner afresh, in the light of G.O.Ms.No.18, Labour & Employment Dept., dated 23.01.2020 and the combined certificate for compassionate appointment issued by the Tahsildar, Kadaladi and pass appropriate orders within a

period of twelve weeks from the date of receipt of a copy of this order. No costs.”

3. Following the remand, the impugned order came to be passed and the petitioner's request was once again rejected by stating the very same ground set out in the order dated 13.10.2021. The Government of Tamil Nadu has issued G.O. (Ms)No.18 Labour and Employment (Q1) Department dated 23.01.2020 setting out comprehensive guidelines for appointment on compassionate ground. The unmarried sisters of the unmarried deceased Government servants are held eligible for compassionate ground appointment. Admittedly, Sundara Moorthy was unmarried when he died in harness. The petitioner is his unmarried sister. Therefore, she clearly falls within the list of eligible persons set out in G.O.(Ms)No. 18 Labour and Employment (Q1) Department dated 23.01.2020. The order impugned in this writ petition is clearly perverse. I therefore quash the same. The first respondent is directed to include the name of the writ petitioner in the list of persons eligible for appointment on compassionate grounds. The petitioner shall be offered compassionate appointment as and when her turn comes.

4. This writ petition stands allowed. No costs.

13.09.2022

Index : Yes / No

Internet : Yes/ No

PMU

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G.R.SWAMINATHAN,J.

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