



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.14816 of 2021

N.Mahalakshmi

... Petitioner

vs.

1.The Director General of Police
Post Box No.601
Dr.Radhakrishnan Salai
Chennai

2.The Superintendent of Police
Thanjavur-613 007

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the 1st respondent to consider the proposal in Na.Ka.No.P2/29902/2008, dated 06.11.2020, made by the 2nd respondent and to permit him to appoint the petitioner's daughter Ms.Manimegalai on compassionate ground by relaxing the G.O.No.120, Labour and Employment Department, dated 26.06.1995.

For Petitioner : No appearance
For Respondents : Mr.A.K.Manikkam
Special Government Pleader

O R D E R

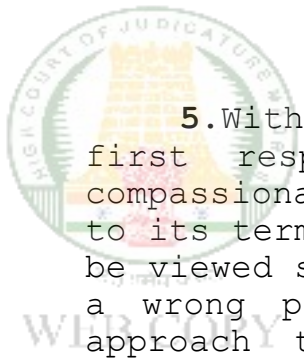
The relief sought for in this writ petition is direct the first respondent to consider the proposal, dated 06.11.2020, made by the second respondent and to permit him to appoint the petitioner's daughter Manimegalai on compassionate grounds by relaxing G.O.Ms.No.120, Labour and Employment Department, dated 26.06.1995.

2.The petitioner states that her husband was working as Police Constable and died on 10.07.2008, while he was in service. She submitted application to the respondents within a period of three years seeking compassionate appointment to her son. The said application was processed on 02.05.2011 itself. Unfortunately, the petitioner's son also died on 02.06.2015. Thereafter, the petitioner submitted another application to provide compassionate appointment to her daughter and the said application is now pending consideration. Thus, the petitioner is constrained to move this writ petition.



3.The petitioner's husband died in the year 2008; she submitted application seeking compassionate appointment to her son; unfortunately, her son also died in the year 2015 and thereafter, the petitioner made another application for compassionate appointment to her daughter, however, there is no provision in the scheme of compassionate appointment to entertain the second application. That apart, after a lapse of fourteen years from the date of death of the employee, the relief of compassionate appointment cannot be considered.

4.This Court is of the considered opinion that the scheme of compassionate appointment being concession cannot be claimed as a matter of right. The Honourable Supreme Court and the High Courts have repeatedly held that the scheme being violative of Articles 14 and 16 of the Constitution of India cannot be extended beyond its scope so as to deprive all the eligible candidates to secure public employment through open competitive process. Thus, the scheme of compassionate appointment cannot be considered beyond its scope and in the event of considering the scheme beyond its scope, then it will create a wrong precedent and many such similarly placed persons will also claim such appointment as a matter of right. In such circumstances, the meritorious candidates, who are all aspiring to secure public employment, will deprive of getting employment through open competitive process. The scheme of compassionate appointment is to be restricted to such an extent to ensure that only deserving family gets appointment within a reasonable period of death of the employee. The Courts have considered various sources, including the terminal benefits and also the quantum of pension for the purpose of ascertaining the penurious circumstances of the family of the deceased employee. Therefore, it is not as if one appointment is to be provided to the family of the deceased employee. It is to be considered where a necessity arises and only to the family which is in penurious circumstances on account of the death of the employee. Therefore, the relief as such sought for by the petitioner cannot be granted. A mere direction to the Authorities to consider the representation is also sometimes abused by the litigants as well as by the Authorities and on some occasions, the Authorities are also actively or passively colluding with the litigants, which resulting in settling of wrong precedents and providing unnecessary scope to all other similarly placed persons either to approach the Authority concerned or to approach the Court of law for the purpose of remedy and in such circumstances, the very constitutional scheme of appointments are not only diluted, but the rights of the lakhs and lakhs of youth of our Great Nation are infringed. Therefore, the Authorities should not pave any way for such unconstitutionality as all the appointments are to be made under the constitutional schemes and based on the open competitive process to be conducted and by providing opportunity to all the candidates, who are eligible.



5. With these observations, the writ petition is dismissed. The first respondent is directed to ensure that the scheme of compassionate appointment is implemented scrupulously with reference to its terms and conditions and any violation, in this regard, is to be viewed seriously, as such violations are resulting in creation of a wrong precedent and providing scope to many such persons to approach the Court of law and the Authorities concerned for appointments. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To:

1. The Director General of Police,
Post Box No.601,
Dr.Radhakrishnan Salai,
Chennai.

2. The Superintendent of Police,
Thanjavur-613 007.

+1 CC to M/s.SPL.GP (SR-10978[F] dated 09/03/2022)

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RS (21.03.2022) 3P-4C