



W.P(MD)No.15629 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15629 of 2022

and

W.M.P.(MD)No.11252 of 2022

Renuka Devi

... Petitioner

Vs.

1.The District Collector,
Karur District,
Karur.

2.The Assistant Director of Rural Welfare (Audit),
O/o. The District Collector,
Karur.

3.The Director,
Rural Development and Village Panchayat Department,
Pangal Building, Saidepet,
Chennai – 15.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the 1st respondent made in Na.Ka.Pava 4/5761/2019 dated 22.12.2021 and quash the same and consequently direct the 1st respondent to grant compassionate appointment.



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For Petitioner : Mr.K.Govindarajan, ,
For Mr.R.Murali.

For Respondents : Mr.R.Sureshkumar,
Addl. Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The issue concerns appointing the writ petitioner on compassionate grounds. This is third round of litigation. The petitioner's father was working as Superintendent in the office of the second respondent and he passed away on 26.02.2009 while in service. The petitioner's mother had predeceased the father. Her brother also died in a road accident on 04.04.2010. The petitioner had got married prior to her father's demise. However, she claimed that during the relevant time, her husband had left her and that she was living with her father as his dependent. The petitioner submitted an application for being appointed on compassionate grounds. The petitioner's application was rejected on the ground that a married daughter is not eligible to be considered. Questioning the same, the petitioner filed W.P.(MD)No.15716 of 2012. Vide order dated 01.02.2013, the order impugned therein was set aside and the writ petition was allowed. This Court held that a daughter of a deceased employee



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cannot be treated as disqualified for being appointed on compassionate grounds only on the ground that she had already got married. The matter was remitted to the authority for fresh consideration.

3. Thereafter the petitioner's application was once again rejected on the ground that she had become age barred. The authority relied G.O.(Ms) No.18, dated 23.01.2020 and pointed out that the writ petitioner having crossed the said age cannot now make a claim. To that effect order dated 04.05.2020 was passed. Challenging the same, the petitioner filed W.P.(MD)No.14136 of 2020. Vide order dated 26.08.2021, the writ petition was allowed in the following terms:-

“5. On a perusal of the records, it is seen that as per the Government Order in G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020, the maximum age limit for submitting the application is prescribed as 40 years. The petitioner has submitted the application at the age of 31 years. Without taking note of the said Government Order, the respondent has passed a cryptic and non-speaking order. Therefore, this Court is of the view that the impugned order is liable to be set aside.

6. Accordingly, the impugned order dated 04.05.2020 is set aside and the matter is remitted back to the first respondent for fresh consideration. The first respondent is directed to pass an order by



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taking note of the Government Order in G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020, within a period of twelve (12) weeks from the date of receipt of a copy of this order.”

4.Following remand, the authority once again rejected the petitioner's request for compassionate appointment. In the impugned order once again the reason that was already dealt with by this Court has been reiterated. The authority had referred to the marital status of the writ petitioner for disqualifying her. The authority had gone to the extent of holding that the writ petitioner cannot be treated as a member of the family of the deceased. I must express my displeasure over the manner in which the writ petitioner's case has been considered. The aforesaid reason runs to counter to the order dated 01.02.2013 made in W.P.(MD)No.15716 of 2012. The other reason set out is that the writ petitioner's husband is independently earning a sum of Rs.3,60,000/- per annum by doing business. The authority has failed to take note of the fact that what is material is the position that prevailed on the date of submission of the application. The position that prevails on the consideration of the application cannot be taken into account. The first respondent had completely misdirected himself in law as well as on facts.



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5. In this view of the matter, the order impugned in the writ petition is set aside. I am not inclined to remand the matter any further. As already noted, this is the third round of litigation. Even while setting aside the impugned order, I direct the first respondent to issue an order appointing the writ petitioner as per the norms. Such an order will be issued within a period of five weeks from the date of receipt of a copy of this order. The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

09.11.2022

Index : Yes / No
Internet : Yes/ No
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To:

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Karur.
2. The Assistant Director of Rural Welfare (Audit),
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G.R.SWAMINATHAN, J.

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