



W.P.No.5268 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

|               |                   |
|---------------|-------------------|
| Reserved on   | <b>12.10.2023</b> |
| Pronounced on | <b>31.10.2023</b> |

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

W.P.No.5268 of 2020

M.Sanitha

... Petitioner

Vs.

1.The Director of School Education,  
DPI Compound,  
College Road, Chennai - 6.

2.The Chief Educational Officer,  
Coimbatore.

3.The District Educational Officer,  
Coimbatore.

... 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 entire records connected with the impugned order passed by the 2nd respondent in Na.Ka.No.1640/A1/2019 dated 20.06.2019 by confirming the order passed by the 3rd respondent in Na.Ka.No.2393/A1/2018 dated 19.06.2018 and quash the same and consequently, direct the respondents to provide suitable employment to the petitioner on compassionate grounds.



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For Petitioner : Mr.S.N.Ravichandran  
For Respondents : Mr.T.Arunkumar, Government Advocate

### **ORDER**

This Writ Petition has been filed seeking issuance of Writ of Certiorarified Mandamus to call for the entire records connected with the impugned order passed by the 2nd respondent in Na.Ka.No.1640/A1/2019 dated 20.06.2019 by confirming the order passed by the 3rd respondent in Na.Ka.No.2393/A1/2018 dated 19.06.2018 and quash the same and consequently, direct the respondents to provide suitable employment to the petitioner on compassionate grounds.

2. Heard Mr.S.N.Ravichandran, learned counsel for the petitioner and Mr.T.Arunkumar, learned Government Advocate appearing for the respondents.

### **3. The brief facts of the case are as follows:**

The petitioner's father N.Mathan was working as B.T.Assistant in the Government High School, Sethumadai and died on 22.08.2013 due to



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heart attack while in service. The petitioner's mother made a representation to the third respondent through the Head Master of the School where the petitioner's father had worked and requested to appoint her on compassionate ground and the same was forwarded to the third respondent on 27.11.2013.

**3.1.** Later the petitioner's mother met with an accident and got fracture over her right leg and became immobilized. Therefore, her mother made a request for giving compassionate appointment to the petitioner. The third respondent vide his order dated 19.06.2018 rejected the claim of the petitioner on the ground that there is no rule or provision to consider the second application when already an application has been made for compassionate appointment and the same has also been confirmed by the 2nd respondent. The impugned orders of the 2<sup>nd</sup> and 3<sup>rd</sup> respondents have been challenged in the present Writ Petition.

**4.** The learned counsel for the petitioner cited various decisions of this Court which is applicable to the case on hand.



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5. The second respondent filed a counter and stated that the petitioner is a married daughter of the deceased employee. So, she could not be considered for employment on compassionate ground.

6. There is no bar for the married daughter of the deceased employee to apply for an appointment on compassionate ground. The position has been well settled by the Hon'ble Supreme Court in the case of State of Karnataka Vs. Apoorva Shree and another decided on 22.03.2021, wherein, it is stated that the married daughters are eligible for appointment on compassionate grounds and their status as 'married' cannot be considered as a disqualification.

7. It is not denied that the petitioner and her daughter are the only legal heirs of the deceased employee. However it is submitted by the learned Government Advocate appearing for the respondents that as per the comprehensive guidelines issued by the Government of Tamil Nadu in G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020 with regard to alternative application, there is no scope to



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consider the request of the petitioner. The relevant guidelines read as under:

*"If the applicant (legal heir of deceased Government Servant) died after applying for compassionate ground appointment, an alternative application may be accepted from the another legal heir of the deceased Government servant, subject to conditions prescribed for compassionate ground appointment."*

8. The first legal heir and the wife of the deceased Government Servant had already submitted an application which is still alive and she has not withdrawn the same. The difficulty for the respondents is that the petitioner's mother who had submitted an application at the initial stage has not yet withdrawn the same. After filing the application, the petitioner's mother met with an accident and in view of the same, she is not able to take up the appointment even if it is offered to her. The petitioner's mother does not have any objection to consider her daughter's application in lieu of her application. The Government Rules state that the alternative application can be received only in the event of the death



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of the first applicant. However, the physical incapability of the petitioner's mother who had already submitted her application cannot be taken lightly. If a person who had applied dies subsequently, no appointment can be given to the dead. Similar is the case of a person who had applied initially and later becomes incapable due to physical incapability. No purpose can be served if a job is offered to a person who has become incapable and who is not able to perform duty. Pedantic interpretation given to the Rules will frustrate the very object of the scheme. Hence the rules has to be understood by foreseeing an event that makes the applicant unable to accept the job.

9. After all, the compassionate appointments are offered to any of the family members of the deceased employee just to ensure that his/her family should not suffer to make out a livelihood, due to the sudden demise of the bread winner. Such noble scheme cannot be diluted by giving narrow interpretation to the Rules governing the scheme. The Government ought to have considered the change of circumstances and due to which the original applicant though alive is not able to take up the



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appointment. Even in the impugned order, it is not stated that there is any *malafide* intention on the part of the petitioner or her mother in placing the present request. The mother of the petitioner has submitted her application within the prescribed time limit. But only due to the intervening circumstances, she had to substitute her daughter for getting the compassionate appointment.

10. The petitioner's mother was also ignorant and she thought that the married daughters will not be given with compassionate appointment. The ignorance of the petitioner is apparent in her subsequent letter sent to the Headmaster of the School. In the said letter, she had stated that she met with an accident and hence, she could not work and her daughter is also married and hence there was no possibility for her also to get the compassionate employment, even if her daughter liked to be employed. The respondents failed to clarify the petitioner's mother even at that time of the marriage of her daughter is not a bar for getting an employment on compassionate ground.



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**11.** The ignorance of the petitioner's mother stood in the way for the petitioner to give an application for the compassionate appointment. Hence, I feel it is appropriate to direct the respondents to substitute the application of the petitioner in the place of her mother's application after getting the consent from the mother and process the same and grant an appointment under the compassionate scheme, suiting to the qualification of the petitioner and in accordance with the other rules of such recruitment.

**12.** In the result, this Writ Petition is allowed and the order passed by the second respondent in Na.Ka.No.1640/A1/2019 dated 20.06.2019 by confirming the order passed by the third respondent in Na.Ka.No.2393/A1/2018 dated 19.06.2018, is quashed and consequently, the respondents are directed to provide suitable employment to the petitioner under the compassionate scheme within a period of six weeks from the date of receipt of a copy of this order.

**31.10.2023**

Index : Yes  
Internet : Yes  
Speaking  
Neutral Citation : Yes  
gsk



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To  
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**R.N.MANJULA, J.**

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**31.10.2023**