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W.P.No.11564 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.11564 of 2023

A.Anandthi

... Petitioner

Vs.

1.The District Collector,
Venkigal,
Thiruvannamalai District – 632 301.

2.The Revenue Divisional Officer,
Arani,
Thiruvannamalai District – 632 301.

3.The Tahsilar,
Arani,
Thiruvannamalai District – 632 301.

4.The Revenue Inspector,
Arani Taluk,
Thiruvannamalai District – 632 301.

5.The Village Administrative Officer,
53, Arni West,
Arni Taluk,
Thiruvannamalai District – 632 301.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 1st respondent herein to consider the petitioner adopted son for the compassionate appointment based on the recommendation by the respondents 3 to 5 herein.



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For Petitioner : Mr.R.Sathish Kumar
For Respondents : Mr.V.Jeevagiridharan
Additional Government Pleader

ORDER

This writ petition has been filed to direct the 1st respondent herein to consider the petitioner's adopted son for the compassionate appointment based on the recommendation by the respondents 3 to 5 herein.

2.It is the case of the petitioner that her husband, namely, Arjunan, was employed as Village Administrative Officer and he died in harness on 26.01.2001. It is the contention of the petitioner that the said Arjunan, during his lifetime, adopted the petitioner's brother son, namely, Vijay, when the child was 5 years old, by following the statutory provisions of Law. After the death of the said employee, the petitioner/mother gave an application for compassionate appointment on 12.03.2001, seeking compassionate appointment for their adopted son on attaining majority. Thereafter, further application was also made on 18.11.2019. The grievance of the petitioner is that, though the



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respondents 3 to 5 have recommended for compassionate appointment of their adopted son, the 1st respondent has not offered any compassionate appointment. Hence, the present writ petition.

3.Learned counsel for the petitioner mainly contended that the adoption has been proved and the 3rd respondent/Tahsildar has also recommended for compassionate appointment to the adopted son. Despite the same, the petitioner's case has not been considered.

4.Heard Mr.V.Jeevagiridharan, learned Additional Government Pleader, appearing on behalf of the respondents.

5.The very scheme of compassionate appointment is a concession shown by the Government. One cannot claim the same as matter of right. The scheme of compassionate appointment was introduced only to alleviate the distress of the family, caused due to the death of the breadwinner of the family at the relevant point of time. Therefore, the object behind the scheme of compassionate appointment is to take care of the family immediately after the death of the employee. In the given case, the petitioner's husband is stated to have died in harness on 26.01.2001.



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Though it is not in dispute that the petitioner had submitted the application

for compassionate appointment well within three years from the death of

death of the Government servant, the fact remains that the petitioner has

not shown her willingness to get appointed by the Government

immediately at the relevant point of time, whereas, she has requested for

postponement of such benefit to be extended to their adopted son at the

time of he attaining majority. Thereafter, after a lapse of 18 years, the

petitioner has once again submitted a representation on 18.11.2019. It is

relevant to note that, when any of the members of the family of deceased

Government employee shows his/her non-willingness or declines to take

up the compassionate appointment at the relevant point of time, it has to

be presumed that they are not in distress at the relevant point of time. The

scheme of compassionate appointment is only to immediately relieve the

family of the deceased from distress, and such appointment is not a matter

of right and the same cannot be postponed till the minor attains majority or

at the choice of the applicant. Therefore, merely based on the

recommendation said to have been made by the Tahsildar, stating that the

adoption is proved and the adopted son could be appointed on

compassionate grounds, the petitioner cannot seek compassionate

appointment as a matter of right, when there is no valid registered



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Adoption Deed also, to prove the adoption.

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6.In such view of the matter, this Court does not deem fit to issue any positive direction in this case. Accordingly, this writ petition is dismissed. No costs.

31.07.2023

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Internet : Yes
Index : Yes / No
Neutral citation : Yes / No
Speaking order / Nonspeaking order

To

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N. SATHISH KUMAR, J.
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