



W.P.No.19487 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Delivered on
28.07.2023	08.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.19487 of 2023

Keerthana

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Petitioner

versus

1. The District Collector,
District Collector Officer,
171, Church Hill Road,
Near Charing Cross,
Pudumund, Ooty,
Nilgiris District,
Tamil Nadu – 643001.

2. The Executive Officer,
Kotagiri Town Panchayat,
Kotagiri, The Nilgiris,
643217.

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Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records



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pertaining to the impugned order of the 2nd Respondent in its proceedings in Na.Ka.No.701/2019 dated 11.11.2022 and quash the same as illegal and incompetent and also directing the Respondents to appoint the Petitioner as Sanitary Worker on compassionate appointment in the Kotagiri Town Panchayat.

For Petitioner : Mr. V. Raghavachari
Senior Counsel for
Mr. Avinash Wadhwani

For Respondents : Mr.S. Arumugham
Government Advocate [for R1]

Mr.S.P.Karthik [for R2]

ORDER

This Writ Petition has been filed challenging the rejection order passed by the 2nd Respondent, rejecting the request of the Petitioner for Compassionate Appointment.

2.(a) The Writ Petitioner is the grand daughter of one Mr. Sundaram. He worked as a Sanitary worker in the Kotagiri Special Grade Town Panchayat and he died in harness on 17.11.2017. It is the case of the



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Petitioner that she was all along under the care and custody of her grandfather since her mother has already died and father abandoned her.

After the death of the grandfather, the Petitioner moved back to Kotagiri along with her husband to take care of her grandmother. As she could not work due to her old age, she has nominated the Petitioner to take up the Compassionate employment.

2.(b) Even in the year 2014, by a letter dated 03.07.2014, her grandfather has submitted a letter to the Executive Officer to nominate the Petitioner as 2nd nominee in the Service Register. Accordingly, the Petitioner and the grandmother shown as nominees. After the death of her husband, the grandmother of the petitioner submitted an application to the Executive Officer to provide the petitioner legal heir job on compassionate appointment. On 24.10.2018, the Petitioner also made a separate application. However, no reply has come for both applications. On 22.09.2020 the Petitioner's grandmother gave representations to the Additional Director. The Petitioner had also made several representations, but there was no reply from the Respondents. Finally on 11.11.2022 the



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impugned order has been passed rejecting the Petitioner's application. It is the contention of the Petitioner that the Petitioner is eligible to be appointed on the compassionate ground as per G.O.Ms.No.18, Labour and Employment Department (Q1) dated 23.01.2020. Hence, the impugned order has been challenged in the Writ Petition.

3. In the counter it is the stand of the Respondent that as per G.O.Ms.No.18 Labour and Employment Department (Q1) dated 23.01.2020 the Petitioner is not eligible to be appointed under the compassionate ground appointment. Petitioner is married on 20.08.2015 and has separate matrimonial home. Hence, the Petitioner is not entitled for compassionate appointment as per rules in force.

4. Learned Senior Counsel appearing for the Petitioner would mainly submit that as per the G.O.Ms.No.18 Labour and Employment Department (Q1) dated 23.01.2020, the petitioner being the nominee, is entitled to appointment on compassionate ground. It is the contention of the learned Senior Counsel that the Petitioner has admittedly shown as nominee of the



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Government servant, who worked as Sanitary worker under the 2nd Respondent. As per the G.O.Ms.No.18, the petitioner is certainly entitled to consider for compassionate appointment.

5. It is relevant to note that the compassionate appointment is not a recruitment process. It cannot be claimed as a matter of right. It is the scheme devised by the Government to help the needs of the legal heirs whose lives are at distress after the demise of Government servant in harness

6. The Petitioner admittedly married and was living in her matrimonial home prior to the death of her grandfather. It is the contention that only after the his death she moved to the grandmother place in order to help her. It is relevant to note that as per the scheme of the Government, Son/Unmarried Daughter/Husband/ legally adopted son/legally unmarried adopted daughter/ widowed daughter/ divorced daughter/ deserted daughter of the deceased Government servant are entitled for the compassionate appointment. Further, any persons in the deceased Government servant family was employed even before the death of the Government Servant but



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was living separately, without extending any help to the family, then the case of other eligible Dependant will be considered; and if any member of the deceased Government servant's family is working on temporary / part time basis such as noon meal organizer and helpers, and those who work on daily wages, the other dependants of the family may be considered for providing appointment; or any person nominated by the wife/husband of the deceased Government servant subject to the eligibility may be given for appointment, provided application for compassionate ground appointment submitted within three years from the date of death of the Government servant.

7. It is the admitted case that the Petitioner is also shown as nominee along with the wife of the deceased. This fact is not disputed. It is the specific case of the Petitioner though she has married, since her grandmother is suffering from disease and was bedridden and the grandmother is entirely depending on the petitioner and she is more than 59 years she could not work due to her old age she seeks such job.

8. In G.O.Ms.No.18 Labour and Employment (Q1) Department dated



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23.01.2020 under the Caption LEGAL HEIRS/NEAR RELATIVES OF THE
DECEASED GOVERNMENT SERVANT / PERSON WHO ARE
ELIGIBLE FOR COMPASSIONATE GROUND APPOINTMENT Clause 4
and 6 reads as follows:

(iv) If any person, in the deceased Government Servant's family was employed even before the death of the Government Servant but was living separately without extending any help to the family, then the case of other eligible Dependant will be considered.

(v)

(vi) If any member of the deceased Government Servant's family is working on Temporary/Part time basis such a noon-mean organizer and helpers, and those who work on daily wages, the other Dependents of the family may be considered for providing appointment."

9. Therefore, this Court is of the view that the wife of deceased is



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already 59 years and totally depending on the petitioner and the petitioner has requisite qualification, the respondent ought to have considered for providing appointment particularly as sanitary worker.

10. Therefore, considering the above, the impugned order rejecting the application mainly on the ground that no document for adoption has been filed cannot be sustained in the eye of law. The petitioner also comes under the near relative of the deceased, besides she was also nominated by the deceased, merely because she married before the death of deceased, she cannot be rejected. The ultimate object of the scheme is to alleviate the distress of the any of the family member of the government servant who died in harness. Admittedly, the widow of the deceased Government Servant is already 60 years of age and she is totally depending on the petitioner; petitioner is none other than the only granddaughter and no other legal heirs are available to lookafter the widow of the deceased Government Servant.

11. Such being the position the impugned order is set aside and the Respondents are directed to consider the claim of the Petitioner for suitable



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post in the cadre of sanitary worker. Accordingly, petitioner shall be given a compassionate appointment as per the seniority maintained in the district level.

12. In the result, the Writ Petition is allowed. No costs.

08.08.2023

Index : yes
Internet : yes
Neutral Citation : yes/no
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copy to:

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N.SATHISH KUMAR, J.,

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