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WP.No. 9852 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.03.2023**

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No. 9852 of 2016
and
W.M.P.No. 8825 of 2016

R. Uma

...Petitioner

Versus

1. The Principal Secretary/
Commercial Tax Commissioner
Chennai.
2. The Joint Commissioner (Commercial Tax)
Coimbatore.
3. The Deputy Commissioner (Commercial Tax) (FAC)
Zone - III
Coimbatore.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, prays to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 08.01.2016 made in Na.Ka.No. Y3/18144/2014 passed by the first respondent, quash the same and consequential direction to the respondents to give job to the petitioner.



WP.No. 9852 of 2016

WEB COPY

For Petitioner : Mr.M.Guruprasad
For Respondents : Mrs.K. Vasanthamala
Government Advocate (CT)

ORDER

This writ petition has been filed challenging the order dated 08.01.2016 made in Na.Ka.No. Y3/18144/2014 passed by the first respondent, quash the same and consequently direct the respondents to give a job to the petitioner.

2. The case of the petitioner is that the petitioner's husband, namely, S.Ramu was appointed as Office Assistant in the third respondent/Department, vide proceedings No. 2954/2013-A1, dated 05.09.2013. While he was working, her husband died on 04.04.2014. The petitioner is a deaf person and she has studied up to 9th standard in Corporation School for the deaf in Coimbatore. Her husband is the only earning member in the family. However, the petitioner made a representation to the third respondent requesting job on compassionate grounds, but the third respondent returned her certificates, vide proceedings, dated 01.02.2016 in Na.Ka.No. 1283/2015/A1 stating that



WP.No. 9852 of 2016

the 1st respondent has rejected her application, vide proceedings in Na.Ka.No. Y3/18144/2014, dated 08.01.2016. Challenging the same, the writ petitioner has come forward with the present writ petition.

3. Counter affidavit has been filed by the respondents, wherein it has been stated that the petitioner's husband, namely, S.Ramu was appointed as Office Assistant in the Deputy Commissioner (CT), Zone-III, Coimbatore, by Proceedings No. 2954/2013/A1, dated 29.08.2013 and he joined duty on 05.09.2013 and died on 04.04.2014. The wife of the deceased sent a petition to appoint her in Commercial Taxes Department through compassionate grounds. The petitioner is a deaf and she studied upto 9th standard in Corporation School for the deaf in Coimbatore. But her petition was rejected for the reason that the deceased Government employee has been recruited as Office Assistant through Employment Exchange. A person recruited through Employment Exchange as per Rule 10(a)(i) & (iii) of the Tamil Nadu State and Subordinate Service Rules, may be ousted from service any time and his services are considered to be temporary till his services are regularized. In this case, the individual has expired on account of his services being not regularized, the plea of the



WP.No. 9852 of 2016

petitioner for appointment on compassionate grounds, has been rejected by the first respondent. Therefore, the above writ petition has no merits and the same is liable to be dismissed.

4. Heard both sides and perused the materials available on record.

5. On a perusal of the records, it is seen that the respondents had rejected the request of the petitioner for appointing the petitioner on compassionate grounds and that the petitioner's husband was working in a temporary post as an Office Assistant and joined duty on 05.09.2013 and was absorbed into the service of the 3rd respondent, but, unfortunately, he died on 04.04.2014 before completion of the probation period of two years.

6. It is the case of the respondents that the petitioner's husband died within seven months from being appointed as an Office Assistant with the third respondent before completion of probation and his probation was not declared and therefore, the case of the petitioner for appointing his wife on compassionate grounds, cannot be considered. It is the further case of the



WP.No. 9852 of 2016

WEB COPY

respondents that the period of probation in the case of a person appointed by direct recruitment or by recruitment by transfer shall be a total period of one year on duty within a continuous period of three years. It is further stated that in G.O.(Ms).No.560, the dependents of the temporary Government Servants appointed under Rule 10(a)(i) of the General Rules for the Tamil Nadu State and Subordinate Service, who died in harness are not eligible to be considered.

7. As a matter of fact, the Government has now issued a revised comprehensive guidelines in G.O.Ms.No. 18, Labour & Employment (Q1) Department, dated 23.01.2020. The respondents are therefore directed to consider the case of the petitioner for appointing her in a suitable post based on her qualification and dispose of the same within a period of four weeks from the date of receipt of a copy of this order.

8. With the above direction, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

13.03.2023

Index : Yes/No
Speaking Order : Yes/N
Neutral Citation: Yes/No



WP.No. 9852 of 2016

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