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W.P.No.25280 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.25280 of 2021
and W.M.P.No.26666 of 2021

P.Shakila

... Petitioner

Vs.

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Village Administrative Officer,
125, Akili, 71, Mathur Village,
Mathur Taluk,
Kancheepuram District

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 1st respondent in Endorsement Rc.No.26312/2010/A6 dated 09.10.2020 and quash the same and consequently direct the respondents to consider the application of the petitioner seeking appointment on compassionate grounds to her elder son namely P.Keerthivasan within reasonable time.



W.P.No.25280 of 2021

WEB COPY

For Petitioner : Mr.L.P.Shanmugasundaram

For Respondents : Mr.A.M.Ayyadurai,
Government Advocate

ORDER

The petitioner has filed this petition seeking to call for the records relating to the impugned order passed by the 1st respondent in Endorsement Rc.No.26312/2010/A6 dated 09.10.2020 and quash the same and consequently direct the respondents to consider the application of the petitioner seeking appointment on compassionate grounds to her elder son namely P.Keerthivasan within reasonable time.

2. The case of the petitioner is that the petitioner's husband viz., A.S.Pilavendiran was working as Village Assistant in Mathur Village for more than 27 years. While filing this writ petition, the age of petitioner's husband was 56. At the age of 50, the petitioner's husband was suffering from progressive A TAX1A (Panm cerelellas), Spino cerebellas atlaxia and his disability was 70%. Therefore, by relying on G.O(Rt) No.1025, Labour



W.P.No.25280 of 2021

and Employment Department dated 22.11.2019, which the Government servants retiring on medical invalidation are eligible for compassionate appointment, the petitioner's husband gave a representation dated 20.09.2019 to the first respondent, seeking compassionate appointment for his elder son viz., P.Keerthivasan, who is a post graduate in M.Sc., Chemistry. The aforesaid representation was forwarded by the first respondent to the Tahsildar, Madurantakam for taking necessary action and to obtain necessary medical certificate and send the report with recommendation. However, the same was referred to Revenue Divisional Officer, Madurantakan.

2.2. Based on the above reference, the Revenue Inspector has conducted an enquiry and submitted a report dated 25.11.2019 stating that the petitioner's husband is suffering from the aforesaid ailment since 2015. Thereafter, the Tahsildar, Madurantakam in his letter Rc.3338/2019/A7 dated 06.02.2020 addressed to the Dean, Government Medical College and Hospital, Chengalpattu, requested to examine A.S.Pilavendiran, petitioner's husband and submit the medical report as to the medical validity of the individual to perform his normal official duty. Subsequently, he was examined by the Medical Board on 04.03.2020 and medical certificate



W.P.No.25280 of 2021

bearing proceeding No.L.Dis.No.1016/MB/2020 dated 04.03.2020 was sent to the Tahsildar, Maduranthakam by the Dean, Chengalpattu Medical College Hospital vide Lr.Rc.1016/MB/2020 dated 19.03.2020, which held that the petitioner's husband was diagnosed Progressive Ataxia (Pan cerebell's) and Spino cerebella's ataxia with 70% disability.

2.3. In view of the above, on 13.06.2020, The Tahsildar, Madurantakam has sent the report dated 19.03.2020 to the first respondent, recommending to give compassionate appointment to Mr.Keerthivasan, elder son of Mr.A.S.Pilavendiran. Though the petitioner's husband was declared medically invalid by the medical board and was recommended by the Tahsildar, Madurantakam, the first respondent in endorsement Rc.26312/2010/A6 dated 09.10.2020 has rejected the request for compassionate ground appointment. Challenging the order dated 09.10.2020 passed by the first respondent, the petitioner has come forward with the present writ petition.

3. Learned Government Advocate appearing for the respondents submitted that the District Collector, Chengalpattu in Endorsement



W.P.No.25280 of 2021

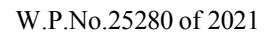
Rc.26312/2010/A6/dated 09.10.2020 has given negative report on the request for compassionate ground appointment by stating that as per the G.O.(Rt) No.168, Labour and Employment dated 19.10.2000, the age of retirement on medical invalidation shall be not more than 53 years and in this case of Mr.A.S.Pilavendiran on examination of his service register, it is found that on the date of his representation dated 21.09.2019 given to the District Collector, Chengalpattu seeking compassionate ground appointment has completed the age of 54 years 5 months and 15 days and since the maximum age limit prescribed for giving compassionate ground appointment is 53 years and there is no possibility of giving compassionate ground appointment to the legal heirs of Mr.A.S.Pilavendiran, Village Assistant, who has been declared medically invalidated to continue in Government service.

4. Learned counsel for the petitioner submitted that the Government Servants, who retire on medical invalidation with not less than five years of left over service is eligible for compassionate ground appointment. He has also relied on Rule 3 (1)(b) of Eligibility for appointment in G.O.Ms.No.33, Labour Welfare and Skill Development (Q1) dated 08.03.2023.



5. Heard the learned counsel on either side and perused the materials available on record.

6. In the present case on hand, the petitioner's husband was working as Village Assistant for more than 27 years. This being so, he was suffering from progressive A TAX1A (Panm cerelellas), Spino cerebellas atlaxia. Hence, he made a representation dated 20.09.2019 before the first respondent seeking compassionate ground appointment for his elder son viz., Mr.P.Keerthivasan. Subsequent to the same, the petitioner's husband was examined by the Medical Board, Chengalpattu Medical College Hospital and they assessed the disability as 70% and The Tahsildar, Madurantakam has sent the said report to the first respondent, recommending to give compassionate appointment to Mr.Keerthivasan, elder son of Mr.A.S.Pilavendiran, who is petitioner's husband, however, the first respondent rejected the claim of the petitioner's husband, since the maximum age limit prescribed for giving compassionate ground appointment is 53 years and the petitioner's husband has crossed 54 years, while giving representation on 20.09.2019.





W.P.No.25280 of 2021

Village Assistant is 60 years. Hence, he has left over service of 6 years and his son Mr.P.Keerthivasan is eligible for appointment on compassionate ground.

9. In view of the facts and circumstances and in the light of G.O.Ms.No.33, Labour Welfare and Skill Development (Q1) dated 08.03.2023, the order passed by the first respondent in Endorsement Rc.No.26312/2010/A6 dated 09.10.2020 is liable to be quashed and the same is hereby quashed.

10. In the result, this writ petition stands allowed and this Court directs the first respondent to consider the application of the petitioner seeking appointment on compassionate grounds to her elder son viz., P.Keerthivasan, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

31.07.2023



W.P.No.25280 of 2021

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Index : Yes/No

Speaking Order : Yes/No

WEB COPY

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WEB COPY



W.P.No.25280 of 2021

J.SATHYA NARAYANA PRASAD,J.

vm

W.P.No.25280 of 2021

Page No.10 of 11



WEB COPY



W.P.No.25280 of 2021

31.07.2023