



W.P No.26787 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

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THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.26787 of 2021

A.Pavithra

...

Petitioner

Vs.

1.The Joint Registrar of Cooperative societies/
Revisional Authority,
Thiruvannmalai Zone,
Thiruvannamalai.

2.The Deputy Registrar of cooperative Societies,
Thiruvannamalai

3.The Management,
HH515, Pillur Primary Agriculture Cooperative Credit Society,
Rep. by its President
Pillur, Thiruvannamalai district. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, after calling for the concerned records from the 1st respondent relating to the order dated 31.08.2021 in Revision Petition No.3/2021 Saba (Na.Ka.No.1806/2021 Saba), quash the same as illegal, arbitrary and contrary to law and



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consequently direct the respondents to consider and appoint the petitioner in any of the suitable post on compassionate ground in the 3rd respondent.

For Petitioner : Mr.Balan Haridas

For Respondents : Mr.T.Chezhiyan
Addl.Government Pleader for RR1 & 2

: No appearance for R3

ORDER

This Writ Petition has been filed seeking for the issuance of a Writ of Certiorarified Mandamus to call for the concerned records from the 1st respondent relating to the order dated 31.08.2021 in Revision Petition No.3/2021 Saba (Na.Ka.No.1806/2021 Saba), quash the same as illegal, arbitrary and contrary to law and consequently direct the respondents to consider and appoint the petitioner in any of the suitable post on compassionate ground in the 3rd respondent's society.

2. The petitioner's father was employed under the 3rd respondent's society and he was medically invalidated and hence, he retired after rendering 27 years of service. As per the bye law of the 3rd respondent's



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society, the dependents of petitioner's father are entitled for compassionate appointment, the petitioner who is the eldest daughter had applied for compassionate appointment with the 3rd respondent's society. Despite the 3rd respondent and other officials recommended for providing the compassionate appointment, no order has been passed so far. It is the grievance of the petitioner that her request was rejected by the 2nd respondent through an impugned order dated 16.10.2019. The one and only reason stated by the 2nd respondent for not providing employment to the petitioner on compassionate ground is that until the day when the petitioner's father got retired, his services were not regularized and hence, no appointment can be given to the petitioner.

3. Heard the submissions made by both side learned counsels and perused the materials available on record.

4. The learned counsel for the petitioner attracted the attention of this court to the judgment of this Court held in WP.No.3837 of 1998 order passed by the learned single judge of this court dated 13.06.2005, in respect of his argument that if a person is in continuous service for more than 480 days in a period of 24 calendar months in the Industrial



Establishments, his services shall be made permanent.

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5. The petitioner's father is said to have been given with regular time scale pay and even he was even given with promotion and totally, he has put for more than 27 years of service. Even the respondents did not state any reason as to why the regularization order was not given to the petitioner's father so far. Since the petitioner's father had completed continuous service of 480 days, his services ought to have been regularized by the 1st and 2nd respondents. The failure on the part of the 1st respondent should not deprive the petitioner from getting the benefit under compassionate appointment scheme.

6. So far as the compassionate appointment scheme is concerned, there are certain essential conditions which has to be complied. The application for compassionate appointment ought to have been given within 3 months and the petitioner's family do not have any other alternate employment and they are depending upon the deceased's employment salary for their livelihood. In fact, the respondents did not produce any materials to show that the petitioner and her family was well placed even after the retirement of the petitioner's father.



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7. Since the application has been rejected only for want of regularization order. However, the petitioner's father is said to have been given with regular pay scale and promotion during his service. Hence the respondents cannot deny the compassionate appointment to the petitioner by stating that the petitioner's father's service were not regularized.

8. In view of that the learned counsel for the petitioner invited the attention of this court in paragraph no.3 of the judgment of this court held in WP.No.3837 of 1998 reported in 2005 (3) L.L.N.706:

“ 3. To consider the questions raised, section 3(1) of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 is relevant. The provision is to the following effect:-

"3. Conferment of permanent status to workmen.--(1) Notwithstanding anything contained in any law for the time being in force every workman who is in continuous service for a period of four hundred and eighty days in a period of twenty four calendar months in an industrial establishment shall be made permanent. “

9. In the above judgment (stated supra) it is clearly held that every workman who is in continuous service for a period of four hundred and eighty days in a period of twenty four calendar months in an industrial establishment shall be made permanent which is squarely applicable to



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the case in hand. Just just because the employee has not confirmed that the status of permanency despite he had the eligibility for the confirmation, the consequent benefits to such employees could not be denied on his death to his dependent wife.

10. In the case in hand, the death of the employee, the employee after having rendered 27 years of service has become medically invalidated and as per the bye law of the 3rd respondent society, the dependence of the such employee is entitled for compassionate appointment. The existence of the bye law is not denied by the 3rd respondent's society; the only ground on which the impugned order rejecting the request of the compassionate application is that the petitioner's father service were not regularized.

11. In the light of the above judgment which has followed the ratio of the earlier judgment of the Hon'ble Supreme Court in ***S.K.Mastan Bee Vs. General Manager, South Central Railway and another [2003 (1) L.L.N 767]*** is squarely applicable to this case. However, in the above *S.Vijayalakshmi case* (cited supra), the petitioner therein has not challenge the order of rejection for several years and



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hence, the petition was dismissed in respect of the relief of compassionate appointment on the ground of laches. In the case in hand, the petitioner did not remain silent for many years, but had opted to file this writ petition and challenging the same. Hence I feel that the relief sought by the petitioner should be granted.

12. In the result, this Writ petition is **allowed** and the impugned order passed by the 1st respondent order dated 31.08.2021 in Revision Petition No.3/2021 Saba (Na.Ka.No.1806/2021 Saba), is quashed. The respondents 1 & 2 are directed to consider and appoint the petitioner in any post suiting to the qualification of the petitioner under the compassionate appointment scheme within a period of four weeks from the date of receipt of copy of this order, in accordance with the law. No costs.

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R.N.MANJULA, J.

jrs

To

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Thiruvannamalai.
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