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W.P.No.10424 of 2017 &
W.M.P.No.11307 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2023

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

W.P.No.10424 of 2017
and W.M.P.No.11307 of 2017

1. V.Durga Devi
2. V.Sathish Kumar

... Petitioners

Vs.

1. Director General of Police,
Kamarajar Salai,
Chennai – 600 004

2. The Superintendent of Police,
Tiruvallur District,
Tiruvallur

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of the 2nd respondent dated 19.04.2004 vide Na.Ka.No.A4/24520/2002 and quash the same and consequently, direct the respondent to consider and grant any suitable appointment to the petitioner on compassionate ground in the respondents' police department.

For Petitioner : Mr.K.A.Prabakaran

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader



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ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of the 2nd respondent dated 19.04.2004 vide Na.Ka.No.A4/24520/2002 and quash the same and consequently, direct the respondent to consider and grant any suitable appointment to the petitioner on compassionate ground in the respondents' police department.

2. The brief facts of the case are as follows:-

(i) The petitioners are the wife and son of one Tr.Vedagiri. The said Vedagiri has worked in Thiruvallur District Traffic Police Department as Grade I Constable. On 10.11.1999, while the said Vedagiri was on duty, he met with an accident and subsequently died. After the demise of the said Vedagiri, there is no one to take care of the petitioners' family. The 1st petitioner applied for job in the 2nd respondent Department on compassionate ground in the year 2002. Since the customs prevailing in the village and society, the elders of the family had not permitted to follow the said application. In the year 2004, the 1st petitioner again applied for job for her elder son (the 2nd petitioner), who was then studying IX standard under compassionate ground.



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(ii) Though the petitioners have provided death and legal heirs certificate, as per the information received by the 2nd respondent through letter dated 24.01.2006, the department had also verified the genuity, the petitioners were not provided with job. Again in the year 2007, the 1st petitioner submitted an application to the 2nd respondent to consider the 2nd petitioner for job under compassionate ground, for which, the 2nd respondent vide letters dated 20.08.2007 and 18.10.2007 sought to produce the documents for job and the petitioners have complied with the same and there is no response from the 2nd respondent.

(iii) Subsequently, for the past 16 years, the petitioners were frequently following the office of the 2nd respondent with regard to the compassionate appointment, lastly on 28.07.2015, a representation was made by the 1st petitioner to consider the 2nd petitioner, for job on compassionate ground and the same was rejected on 26.08.2015 on the ground that the department have already informed that on 19.04.2004 itself, the application has been rejected and that job cannot be provided to the 2nd petitioner on compassionate ground.

3. The learned counsel for the petitioners would submit that due to the customs prevailing in the petitioners' society, the 1st petitioner demanded job for her son, viz., 2nd petitioner on 09.02.2004, though the 2nd petitioner was studying IX standard at that time, however, the rejection order, citing the Judgment of Hon'ble Supreme Court was passed by the



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Department in the year 2009 in Letter Na.Ka.No.D.14/24520/02 dated 16.09.2009 but at that time, the 2nd petitioner was major and has full capacity to get appointment under compassionate ground.

4. Further, the learned counsel for the petitioners also submitted that the communications between the petitioners and the respondents proves that the claim of the petitioners was not rejected before 16.09.2009, thereby pleaded to allow the present petition.

5. On the other hand, the learned Special Government Pleader appearing for the respondents would submit that the 2nd petitioner attained majority in the year 2008 and the application submitted on 21.01.2008 by him was not within the stipulated time and hence the same was rejected. The first petition submitted by the 1st petitioner on behalf of the 2nd petitioner on 09.02.2004 was rejected on 19.04.2004 itself.

6. The learned Special Government Pleader appearing for the respondents would further contend that on account of the mistake committed by the 1st respondent in making an application for job on compassionate ground without knowing her health condition and the custom prevailing in her society and claiming the same after several years, cannot be countenanced by the department, thereby pleaded to dismiss the petition.



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7. Heard the learned counsels on either side and perused the documents placed on record carefully.

8. It is to be noted that on earlier occasion, viz., on 08.03.2022, there was no representation on behalf of the petitioners and since there was no representation on behalf of the petitioners on 03.03.2022 also, the present petition was dismissed for non-prosecution. On 06.03.2023, the petitioners filed W.M.P.No.7270 of 2023 to restore the present petition and on being satisfied with the affidavit filed in support of the said petition, the same was allowed by an order dated 03.04.2023 and the present petition was restored. Again, since there was no representation on behalf of the petitioner on 24.11.2023, this petition was directed to be listed on 28.11.2023 under the caption 'for dismissal'. Today, viz., 28.11.2023, the learned counsel for the petitioner is present and this Court heard his submissions.

9. In fact, the purpose of providing employment for a dependent of a government servant dying in harness in preference to anybody else is to mitigate the hardship caused to the family of the employee on account of his unexpected death while in service. To eradicate the distress of the family, such appointments are permissible on compassionate grounds



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provided there are Rules providing for such appointment. The purpose is to provide immediate financial assistance to the family of a deceased government servant. In this case, the 1st petitioner's husband died on 10.11.1999, the 1st petitioner submitted an application for compassionate appointment on 11.02.2002, however, without any supporting documents. The G.O. Ms. No.120, Employment Department dated 26.06.1995 contemplates that the application seeking appointment on compassionate grounds should be submitted within a period of three years from the date of death of the employee, but in this case, the 1st petitioner has made an application for job on 11.02.2002 on compassionate ground, however, without supporting documents. In the affidavit of the present petition, the 1st petitioner has ascribed that since her in-laws have not permitted her to proceed for work, she has not followed the application which was submitted for compassionate appointment. However, again the 1st petitioner submitted a petition requesting appointment for her elder son, viz., 2nd petitioner on 09.02.2004, nearly after four years from the date of death of government servant, that too at that point of time, the 2nd petitioner was studying IX standard. The said application dated 09.02.2004 was rejected on 19.04.2004. Again the 1st petitioner has made an application to the 2nd respondent to consider to consider the 2nd petitioner for job under compassionate ground in the year 2007, which is nearly 8 years after the death of the government servant.



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10. It is relevant to point out that the reason for making compassionate appointments, which is exceptional, is to provide immediate financial assistance to the family of a government servant, who dies in harness when there is no other earning member in his family. No such consideration would normally operate 8 years after the death of a government servant, as held by the Honourable Supreme Court in the decision reported in **(State of U.P. And others vs. Paras Nath) (1998) 2 Supreme Court Cases 412.**

11. Once it is proved that inspite of death of a bread winner the family survived and substantial period is over, there is no need to make appointment on compassionate grounds at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution. Followed (State of J & K and others vs. Sajad Ahmed Mir) (2006) 5 Supreme Court Cases 766.

12. In this case, the 2nd respondent has rightly pointed out in the impugned order dated 19.04.2004 that the 2nd petitioner cannot be appointed on compassionate basis on the ground that three years have passed since the 1st petitioner made second application for appointment of her son on compassionate basis. According to the direction of the Hon'ble



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Supreme Court, it is not possible to allot the post on compassionate basis for the minor children, who are studying in the school, thereby requested the 1st petitioner to appear directly at the District Police Office, Thiruvallur, if she is eligible for appointment on compassionate basis” which cannot be found fault with, besides that, the same is also contrary to G.O. Ms. No.120, employment department dated 26.06.1995.

13. In view of the above said facts that the application of the petitioner seeking appointment on compassionate grounds is belated and contrary to G.O. Ms. No.120 mentioned supra and also following the decisions of the Hon'ble Supreme Court stated supra, this Court has no other alternative except to dismiss the writ petition holding that the impugned order is valid, accordingly, the present Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

28.11.2023

Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order
ssd



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To

1. Director General of Police,
Kamarajar Salai,
Chennai – 600 004
2. The Superintendent of Police,
Tiruvallur District,
Tiruvallur



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V.BHAVANI SUBBAROYAN J.

ssd

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