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W.P.No.21536 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.21536 of 2017
and
W.M.P.No.22523 of 2017

S.Anitha

... Petitioner

Vs.

1.The General Manager,
Indian Overseas Bank,
Personal Administration Department,
Central Office,
No.762, Anna Salai,
Chennai – 600 002.

2.The Chief Manager,
Personal Administration Department,
Indian Overseas Bank,
Regional Office,
Pondicherry.

3.The Branch Manager,
Vadalur Branch,
Vadalur – 607 303
Cuddalore District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent dated 05.04.2017, quash the same as



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unconstitutional and further direct the first and second respondents to provide suitable employment to the petitioner under compassionate grounds.

For Petitioner : Mr.T.Ramkumar

For Respondents : Mr.K.Srinivasa Murthy

ORDER

This Writ Petition is filed to call for the records of the second respondent dated 05.04.2017, quash the same as unconstitutional and further direct the first and second respondents to provide suitable employment to the petitioner under compassionate grounds.

2. The case of the petitioner is that she is a married daughter of late G.Saravanan, who died on 04.12.2016 during the course of his employment with the respondents, on his death, the petitioner sought for compassionate appointment. Through the impugned order dated 05.04.2017, her request was rejected on the ground that as per the scheme, only a wholly dependent legal heir can be considered for compassionate appointment and since the applicant is married, she cannot be wholly dependent legal heir to the deceased employee.



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3. Learned counsel for the petitioner would submit that the family of the deceased employee is in indigent circumstances and she has to support the family, which includes mentally challenged brother and her mother also suffers from Cancer.

3.1. Learned counsel also relied upon the decision of the Hon'ble Full Bench of the Rajasthan High Court at Jodhpur in ***Priyanka Shrimali Vs. State of Rajasthan, Secretary, Department of Personnel, Secretariat, Jaipur and Others***, passed in ***Civil Reference No.1/2022 dated 13.09.2022*** and submitted that exclusion of the married daughter from the purview of the scheme is unjustifiable.

4. Learned counsel for the respondents, produced a copy of the scheme of compassionate appointment together with the Banks circular and submitted that as per the letter of the Department of Financial Services, Ministry of Finance, Government of India, the married son was brought under the purview of dependent “family member” for the purpose of compassionate appointment scheme and that the unmarried daughter has not been included in the scheme.



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5. When the scheme of the respondents Bank for appointment on compassionate ground does not include a married daughter as a dependent of the family of the deceased, this Court exercising its power under Article 226 of the Constitution of India, cannot direct the respondents to consider the request of a married daughter for compassionate appointment. The High Court can only act within the permissible jurisdiction of the terms of the scheme. When a married daughter is disentitled to claim compassionate appointment, the claim of the petitioner that she is taking care of the family of the deceased, may not require consideration.

6. Learned counsel for the petitioner also placed reliance on the decision in the case of **Priyanka Shrimali**, as stated supra, in which the Hon'ble Full Bench had struck down the disentitlement of a married daughter under the compassionate appointment scheme in the Government of Rajasthan.



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7. This decision may not be applicable to the respondents herein since they are governed by a totally different scheme. However, the justification given in the Full Bench decision, may be applicable for the purpose of consideration by the concerned Department of Financial Services for inclusion of a married daughter in the scheme for the future. In this connection, this Court, calls upon the Department of Financial Services, Ministry of Finance, Government of India, to reconsider the scheme of compassionate appointment applicable to the respondents Bank for the purpose of inclusion of a married daughter to claim the benefit of the compassionate appointment.

8. In the light of the above observation, no interference is required in the impugned order dated 05.04.2017. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

01.03.2023

Index: Yes/No
Neutral Citation: Yes/No

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M.S.RAMESH, J.

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