



W.P(MD)No.5590 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2023

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5590 of 2023

and

WMP(MD)No.5223 of 2023

1.V.Athilakshmi

2.V.Akshaya

3.V.Aarthi

... Petitioners

Vs.

1.Life Insurance Corporation of India,
Rep.by its Chairman, Central Office, Jeevan Bima Marg,
Mumbai – 400 021.

2.The Zonal Manager, Southern Zone, LIC of India,
Zonal Office, LIC Buildings, Anna Salai, Chennai – 600 002.

3.The Senior Divisional Manager,
Life Insurance Corporation of India,
Divisional Circle, Tirunelveli.

4.The Manager (Policy & Industrial Relation),
Divisional Office, Life Insurance Corporation of India,
Tirunelveli.

5.The Branch Manager,
Life Insurance Corporation of India,
Kuzhithurai Branch,
Marthandam – 629 165.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus to call for the records
relating to the impugned proceedings passed by the fourth respondent dated



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04.01.2023 and quash the same and consequently direct the respondents to pass an order granting appointment to the first petitioner or the petitioners 2 or 3 in any suitable post in the respondent office on compassionate ground based on the petitioners' final representation dated 24.09.2022 within a time frame.

For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.D.Shanmugaraja Sethupathi

ORDER

Thiru.S.Viswanathan was working as Higher Grade Assistant in LIC. He died on 13.11.2011. The first petitioner is wife and the petitioners 2 and 3 are his daughters. An application for appointment on compassionate ground was submitted in the year 2012 itself. It is not in dispute that the application was submitted within time. The said application was not considered for the reason that the first petitioner was accused by her father in law as having murdered his son Viswanathan. The first petitioner was however acquitted as early as on 31.07.2012 in S.C No.109 of 2012 on the file of the 4th Additional District and Sessions Court, Tirunelveli.

2.Questioning the same, the father-in-law filed Crl RC(MD)No.586 of 2012 which was converted into Crl A(MD)No.557 of 2018. The appeal was also dismissed on 17.09.2020. In the counter affidavit, it has been stated that



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the application of the first petitioner for appointment on compassionate ground could not be considered by LIC till the criminal appeal attained its finality.

There is no provision in the service regulations that a person accused in a criminal case will become eligible for compassionate appointment only if he is acquitted honorably. When there is no such specific stipulation in the service regulations, employment cannot be denied to the first petitioner.

3.Once the first petitioner was acquitted in the year 2012 itself, the application ought to have been considered. It was unjustifiably kept waiting for the disposal of the criminal appeal. The employer cannot take advantage of their own wrong. The criminal appeal itself was not pressed by the father-in-law in the year 2020. That apart, the impugned order is also non-speaking. It is true that during the intervening period, the first petitioner sought employment for one of her daughters. That was rejected by an order in the year 2021. I am of the view that the first petitioner can seek relief for herself and not for her daughters. The death of the employee took place in the year 2011. The application was submitted in the year 2012 itself. There was no justification for the department in not considering the application even after the acquittal of the first petitioner. Citing age-limit set out in the service regulations will amount to taking advantage of one's own wrong. The



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impugned order is set aside. The second respondent is directed to appoint the petitioner in any post as per norms forthwith and without any delay. The writ petition is allowed. No costs. Consequently, connected MP. is closed.

12.06.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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G.R.SWAMINATHAN, J.

SKM

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