



W.P.(MD).No.12119 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.12119 of 2023

I.Shiny

... Petitioner

Vs

The Superintendent of Police,
Security Branch, Chennai 28.
(*Amended as per Order, dated 24.06.2022)

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, by calling the records relating to the proceedings of respondent made in Na.Ka.No. D2/Pathu/4086/183/2020, dated 08.01.2021 and quash the same and consequently direct the respondent to permit the petitioner to join duty under compassionate appointment as per the appointment order, dated 23.10.2020 issued by the respondent.

For Petitioner : Mr.R.Murali

For Respondents : Mr.D.S.Neduncheliyan
Government Advocate



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ORDER

The present writ petition has been filed seeking a direction to the respondent to quash the proceedings in Na.Ka.No. D2/Pathu/4086/183/2020, dated 08.01.2021 and consequently direct the respondent to permit the petitioner to join duty under compassionate appointment, as per the appointment order, dated 23.10.2020 issued by the respondent.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.(i)The petitioner's father served as a Contable in the Police Department and while in service, he died on 22.03.2013. The petitioner's father was survived by his wife and three daughters. The petitioner is the youngest daughter of the said deceased employee, viz., Israil.

(ii)The petitioner made an application before the respondent seeking appointment on compassionate ground. Along with the said application, the petitioner has also submitted the Combined Certificate issued by the Tahsildar, Ambathur, dated 13.03.2014. After scrutinization of the petitioner's application, she was provisionally selected by the respondent to the



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post of Data Entry Assistant by proceeding, dated 23.10.2020. On the basis of which, she was directed to undergo typing and basic computer operation trainings.

(iii)The petitioner was further directed to produce all the original certificates with a fresh Combined Certificate issued by the Tahsildar concerned. At that time, since the petitioner was living in Kanyakumari District, she obtained a Combined Certificate from the Tahsildar, Vilavancode, Kanyakumari District, on 06.11.2020.

(iv)In the said certificate, the Tahsildar, Vilavancode, Kanyakumari District has observed the house property details belonging to the petitioner's mother and husband, and also the fact that her husband was employed in Military.

(v)After perusal of documents submitted by the petitioner, including the Combined Certificate issued by the Tahsildar, Vilavancode, Kanyakumari District, the impugned order, dated 08.01.2021 came to be passed by the respondent, rejecting the petitioner's application, based on the Combined Certificate issued by the Tahsildar, Vilavancode, Kanyakumari District dated 06.11.2020, since the said certificate revealed the details about the house



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properties belonging to the petitioner's mother as well as her husband, and also the details of her husband's employment in military.

(vi)Assailing the said impugned order the said writ petition came to be filed.

4.Heard, Mr.R.Murali, learned counsel appearing for the petitioner and Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the respondent.

5.The learned counsel for the petitioner submitted that the petitioner having been selected by the respondent vide order, dated 23.10.2020, ought not to have passed the impugned order, based on the Combined Certificate issued by the Tahsildar, Vilavancode, Kanyakumari District and he pressed for allowing the petition.

6.Per contra, Mr.N.Muthu Vijayan, learned Special Government Pleader has filed a counter affidavit and relying upon G.O.Ms.No.18, Labour and Employment(Q1), dated 23.01.2020 submitted that only after examining the financial condition of the family of the deceased employee, the respondent



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has passed the impugned order, considering the fact that the petitioner's family is not under penury and the annual income of the family is more than Rs.2 lakhs. As per the Government Order cited *supra*, those families who are having a family income below Rs.2 lakhs could be treated as family is in indigenous circumstances. Therefore, the writ petition is liable to be dismissed.

7. On perusal of said the Government Order cited *supra*, under the head legal heirs, who are eligible for compassionate ground appointment it is given as hereunder:

"LEGAL HEIRS / NEAR RELATIVES OF THE DECEASED GOVERNMENT SERVANT / PERSON WHO ARE ELIGIBLE FOR COMPASSIONATE GROUND APPOINTMENT:

(i) Son / Unmarried Daughter / wife / Husband / legally adopted son/ legally Unmarried adopted daughter / widowed daughter / divorced daughter / deserted daughter of the deceased Government servant.

(ii) Father / Mother and unmarried brothers and unmarried sisters of the unmarried deceased Government Servants.

(iii) Married daughter of the deceased Government Servant who is otherwise eligible.

(iv) If any person, in the deceased Government Servant's family was employed even before the death of the Government Servant but was living separately without extending any help to the family, then the case of other eligible dependant will be considered.



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(v) If any dependant/dependants of deceased Government Servant is/are employed in Military Service, one of the other dependents is eligible for appointment under compassionate ground.

(vi) If any member of the deceased Government Servant's family is working on Temporary / Part time basis such as noon-meal organizer and helpers, and those who work on dally wages, the other dependents of the family may be considered for providing appointment.

8. In the said Government Order in clause (iv), it is stated that if any of the legal heir of the deceased employee employed in military service, then any other dependent can be considered for the compassionate ground appointment. However, in this case, none of the legal heirs of the deceased are employed in military service, only the deceased's son-in-law, was employed in military service, that too as of now, he is discharged from military service.

9. That apart the said Government Order cited *supra*, also mandates that while considering application for compassionate ground, for the assessment of annual income of the family, the family pension of the deceased employee and the immovable property like living house of the employee need not be taken into account. Therefore, in terms of the said Government Order itself, the contentions of the Special Government Pleader cannot be sustained.



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10.It is a clear case, where the petitioner is a married daughter of the deceased employee and vide the impugned order, the respondent has rejected the application of the petitioner seeking compassionate ground, on the ground that the petitioner's husband is a military man and that the petitioner's mother and her husband are also having houses on their own. However, that will not disqualify the petitioner's eligibility to seek appointment on compassionate ground. Therefore, the impugned order of the respondent, dated 08.01.2021 is hereby quashed and I consequently, direct the respondent to appoint the petitioner in a suitable post, as per the appointment order issued by the respondent, on 23.10.2020, within a period of twelve (12) weeks from the receipt of a copy of this order.

11.Accordingly this Writ Petition is allowed. There shall be no order as to costs.

16.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM

To
The Superintendent of Police,
Security Branch, Chennai 28.



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L.VICTORIA GOWRI, J.

PNM

ORDER IN
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