



W.P.(MD).No.14621 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.14621 of 2022

K.S.Devika

... Petitioner

Vs.

1.The Chief Educational Officer,
District Educational Office,
Madurai District,
Madurai.

2.The District Educational Officer,
Madurai District,
Madurai.

3.The District Elementary Educational Officer,
Madurai District,
Madurai.

4.The Assistant Elementary Educational Officer,
Madurai South,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records and proceedings of the 1st respondent in Na.Ka.No.1306/A2/2019 dated 27.09.2021 and quash the same as illegal and consequently to direct the respondents to appoint the petitioner's son, namely S.Aravind Hrishikesh in any



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suitable vacancy for employment on compassionate ground with the period that may be stipulated by this Court.

For Petitioner : Mr.P.Yasmin Begum

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

The present writ petition has been filed to call for the records and proceedings of the 1st respondent in Na.Ka.No.1306/A2/2019 dated 27.09.2021 and quash the same as illegal and consequently to direct the respondents to appoint the petitioner's son, namely S.Aravind Hrishikesh in any suitable vacancy for employment on compassionate ground with the period that may be stipulated by this Court.

2. The petitioner's husband one Mr.Sivakumar served as an Office Assistant in Panchayat Union Middle School, Errampatti in the year 2007. Unexpectedly, on 26.10.2013, the petitioner's husband died and he was survived by the petitioner and their only son, namely S.Aravind Hrishikesh. On 11.11.2014, the petitioner made an application seeking compassionate appointment to the respondents along with all necessary educational certificates



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and legal heir certificate. The said application was kept in abeyance without consideration for a period of 5 years. By that time, the petitioner submitted another application on 25.11.2019 seeking compassionate appointment for her son, namely S.Aravind Hrishikesh. Considering the same, on 10.01.2020, the 1st respondent passed an order rejecting the application, dated 25.11.2019 for the following reasons: “the relevant rule do not permit the respondents to consider the subsequent application / alternative application seeking compassionate appointment when already an application made by one of the legal heirs seeking compassionate appointment is pending for appreciation”. On that ground, vide order dated 10.01.2020, the 1st respondent rejected both the applications.

3. Challenging the same, the petitioner filed W.P(MD)No.4399 of 2020 before this Court and this Court was pleased to quash the said order on 26.07.2021 as follows:

“4.From the materials available on record, it is seen that the petitioner has submitted her application on 11.11.2014 seeking appointment for herself on compassionate ground. The respondents did not consider the same and kept the same for pending for more than 5 years. When the petitioner and her son submitted applications on 25.11.2019, seeking appointment for



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the petitioner's son due to ill-health of the petitioner, within 1 ½ months of receipt of the applications, the first respondent, by impugned proceedings, dated 10.01.2020, rejected all the applications on the ground that when an earlier application is pending for consideration, subsequent applications are not maintainable. When the first respondent is of the view that subsequent applications are not maintainable, the respondents ought to have considered the earlier application of the petitioner in time and pass orders on merits. Without doing so, the first respondent rejected all the applications on erroneous reasons.

5.In view of the same, the impugned order, dated 10.01.2020, passed by the first respondent is liable to be set aside and the same is hereby set aside. The petitioner has stated that due to non-consideration of her earlier application for appointment on compassionate ground, she was forced to do tailoring work to maintain her family and educate her son. Due to the tailoring work, she is suffering from Hypothyroidism, Anemia with Osteoarthritis knee joints. Due to the inaction of the respondents for more than 5 years in not considering the application, the respondents are directed to consider the application of the petitioner seeking appointment on compassionate ground for her son and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.”



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4. A specific direction was given by this Court in the said case directing the respondents to consider the application of the petitioner seeking appointment on compassionate appointment for her son and passed order on merits and in accordance with law. Thereafter, the respondents considering the second application passed the impugned order, dated 27.09.2021 rejecting the said application for the following reason “There is no rule permitting an applicant to submit a subsequent application seeking compassionate appointment for another legal heir having made an application for himself/herself at the time of first instance.”

5. Heard M/s.Yasmin Begum, learned counsel for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate for the respondents and perused the materials available on record.

6. The learned counsel for the petitioner strongly contended that both the impugned orders will prove the callousness and atrocious nature of the respondents in handling with an application made by the family which is in disgust and penury of a deceased employee. It is an unfortunate case where the respondents have handled such application with much irresponsibility. Had the



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application made by the petitioner been considered within a period of 3 years, on this day, when this Court is pronouncing this order, the petitioner would have been in employment. However, the delay caused by the respondents had forced the petitioner in making a second application seeking employment for her son which is not permissible in the light of G.O.Ms.No.18, Labour and Employment (Q1) Department, dated 23.01.2020. The said Government Order deals with alternative application as follows:

“If the applicant (legal heir of deceased Government Servant) died after applying for compassionate ground appointment, an alternative application may be accepted from the another legal heir of the deceased Government Servant, subject to conditions prescribed for compassionate ground appointment.”

7. An alternative application could be made by another legal heir of the deceased Government servant only in the event of the death of the legal heir who actually sought for compassionate appointment at the first instance. In this case, the petitioner is alive and the petitioner is seeking for alternative employment for her son and that is not permissible in the light of the above said Government Order. This Court is not inclined to interfere with the impugned order passed by the respondent.



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8. Hence, this Writ Petition stands dismissed. No costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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L.VICTORIA GOWRI, J.

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