



W.A.(MD) No.93 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.11.2023

CORAM

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD) No.93 of 2017
and C.M.P.(MD) No.882 of 2017

1.The Personal Assistant to District Collector
(Rural Development)
Theni District.

2.The Commissioner / Block Development Officer,
Antipatti Panchayat Union,
Antipatti, Theni District.

3.The Assistant Block Development Officer,
Theni District.

4.The President,
Sitharpatti Panchayat,
Sitharpatti, Antipatti Taluk,
Theni District.

... Appellants/Respondents

-Vs.-

Muthulakshmi

... Respondent/Writ Petitioner

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order dated 16.11.2016 made in W.P.(MD)No.19151 of 2016 on the file of this Court.



W.A.(MD) No.93 of 2017

For Appellants : Mr.S.P.Maharajan
Special Government Pleader

For Respondent : Mr.S.Balaji

J U D G M E N T

(Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**)

The Writ Appeal has been filed against the order dated 16.11.2016, passed in W.P.(MD) No.19151 of 2016.

2. The claim of the respondent, seeking appointment on compassionate ground was allowed by the learned Single Judge on the ground that the Government issued G.O.(Ms).No.102, Rural Development and Panchayat Raj (E5) Department, dated 13.07.2015, providing compassionate appointment to the legal heirs of the deceased employees served in Panchayats.

3. The husband of the respondent was holding the post of Secretary in the 4th appellant Sittharpatti Panchayat and died on 18.06.2012, while he was in service. The respondent submitted an application seeking appointment on 13.08.2012 and the appellants



W.A.(MD) No.93 of 2017

rejected the claim of the respondent on the ground that there was no scheme to provide compassionate appointment to the legal heirs of the deceased employees of the Panchayat. The said order came to be challenged and the learned Single Judge while setting aside the order made a finding that the respondent is entitled for compassionate appointment since it is a right conferred on the legal heirs of the deceased employee.

4. Learned Special Government Pleader appearing on behalf of the appellants made a submission that as on the date of death of deceased employee, the scheme of compassionate appointment was not in force. The scheme was introduced by the Government in G.O.(Ms) No.102, dated 13.07.2015, prospectively. Therefore, the said scheme cannot be extended retrospectively so as to provide compassionate appointment to the legal heirs of the deceased employee who died prior to the issuance of G.O.(Ms) No.102, dated 13.07.2015.

5. We have considered the issues raised between the parties.



W.A.(MD) No.93 of 2017

6. Admittedly, the scheme of compassionate appointment was not in force at the time of death of the deceased employee. The scheme was introduced in the year 2015. The said G.O.(Ms) No.102 states that the order will take effect from the date of passing and therefore, the scheme which was introduced cannot be implemented retrospectively and if such concessionary schemes were implemented with retrospective effect, the same will result in opening of Pandora's box and the Government cannot be in a position to provide appointments to all those legal heirs of the deceased employees who died prior to the introduction of scheme of compassionate appointment.

7. Scheme of compassionate appointment is a concession and cannot be construed as a right confirmed. Concession is to be granted by scrupulously following the terms and conditions stipulated. Efflux of time is also a ground to deny appointment on compassionate grounds since the penurious circumstances arose on account of sudden death of an employee became vanished. Thus, we do not find any reason to sustain the order impugned before us.



W.A.(MD) No.93 of 2017

8. In the present case, the husband of the respondent died on 18.06.2012 and during the relevant point of time, the scheme of compassionate appointment was not in force and more so, the respondent is aged 47 years now and considering the facts and circumstances we are inclined to consider the Writ Appeal filed by the State.

9. Accordingly, the order dated 16.11.2016, passed in W.P. (MD) No.19151 of 2016 is set aside and the Writ Appeal is allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

[S.M.S.J.] & [V.L.N.J.]
16.11.2023

NCC :Yes/No

Index :Yes/No

SJ

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W.A.(MD) No.93 of 2017

S.M.SUBRAMANIAM, J.
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W.A.(MD) No.93 of 2017

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