



WEB COPY



W.P.No.557 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.557 of 2024

S.Vijayakumar

...Petitioner

-Vs-

1.The Additional Chief Secretary,
Home Department, Secretariat,
Fort St. George, Rajaji Road,
Chennai - 600009

2.The Director General of Police,
DGP Office,
Dr. Radhakrishnan Salai,
Mylapore, Chennai- 600 004.

3.The Commissioner of Police,
Office of Commissioner of Police,
Veppery, Chennai-600 007.

4.The Additional Chief Secretary,
Labour and Employment Department,
Secretariat, Fort St. George,
Rajaji Road, Chennai – 600 009.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus directing the Respondents to issue the duty joining order to the petitioner to join duty in the office of the 3rd respondent herein on the basis of Appointment Order issued by the 3rd respondent vide Na.



W.P.No.557 of 2024

Ka. No.K.A.Pa.Ni/320/82363/2020, Chennai Police Order No.2612/2020, dated 28.10.2020 for the post of “Data Entry Operator” by considering the representations of the petitioner dated 02.02.2022, 16.08.2022 and 04.11.2022.

For Petitioner : M/s.C.C.Sivakumar

For Respondents : M/s.S.Arumugam
Government Advocate.

ORDER

This Writ Petition has been filed for direction directing the respondents to issue joining order to the petitioner to join duty in the office of the third respondent as per the order of appointment dated 28.10.2020 for the post of Data Entry Operator.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner got married to one Thilagam. She was working as Grade-II Women Police Constable in Tamil Nadu Police Department as per the appointment order dated 18.02.2003. Unfortunately, while she was in service, she died on 19.11.2008. Thereafter, the petitioner, being husband of the deceased women police constable, applied for a suitable post on compassionate ground. The third respondent appointed the petitioner, by an order dated



W.P.No.557 of 2024

28.10.2020, in the post of Data Entry Operator. As per the order, the petitioner submitted all the required certificates and fulfilled all the requirements. Even then, the third respondent did not issue an order permitting the petitioner to join duty. Therefore, the petitioner submitted an application under Right to Information Act and received a reply dated 12.10.2022. It reveals that when the woman got married after demise of her husband, she is not entitled for compassionate appointment. However, if the husband of the deceased wife got married, whether he is entitled for compassionate appointment or not has to be clarified by the Government. The petitioner got re-married to look after his minor daughter after the demise of his wife. However, the third respondent issued appointment order dated 28.10.2020 and directed the petitioner to submit all the certificates. Even before issuance of appointment order, he got married as early as on 21.10.2009 itself. Therefore, after his marriage only the third respondent issued appointment order for joining duty as Data Entry Operator. The third respondent, after verification of the certificates submitted by the petitioner, failed to issue order permitting him to join duty. Therefore, the petitioner submitted a representation to consider his case.

4. A perusal of G.O.(Ms) No.18, dated 23.01.2020 reveals that if the applicant is a remarried woman, after death of her husband, she is not



W.P.No.557 of 2024

entitled for compassionate appointment. However, there is no mentioning about if the applicant is a re-married man, after death of his wife, whether he is eligible to be appointed or not. As stated supra, even after remarriage by the petitioner on 21.10.2009, the third respondent issued appointment order to the petitioner on 28.10.2020.

5. The Hon'ble Supreme Court of India in the case of ***State of Karnataka and others Vs. C.N.Apporva Shree and another*** dated 17.12.2021 made in ***S.L.P.No.20166 of 2021*** upheld the Judgment of the Karnataka High Court in the case of ***Bhuvaneshwari V.Purani Vs. State of Karnataka***, wherein, the Karnataka High Court had struck down the rule which disqualified the married daughters from seeking compassionate appointment. Therefore, the petitioner, being husband of the deceased wife, is entitled to be appointed on compassionate appointment. Even after his second marriage, since no Government order is provided to the married husband to be appointed on compassionate ground.

6. Considering the above facts and circumstances of the case, the third respondent is directed to permit the petitioner to join duty as Data Entry



W.P.No.557 of 2024

Operator as per the appointment order dated 28.10.2020, forthwith, if he otherwise fulfills the other requirements.

7. With the above direction, this Writ Petition stands allowed. No costs.

10.01.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Lpp

To

1.The Additional Chief Secretary,
Home Department, Secretariat,
Fort St. George, Rajaji Road,
Chennai – 600009.

G.K.ILANTHIRAIYAN. J.

Lpp

2.The Director General of Police,
DGP Office,
Dr. Radhakrishnan Salai,
Mylapore, Chennai- 600 004.

3.The Commissioner of Police,
Office of Commissioner of Police,
Veppery, Chennai-600 007.



W.P.No.557 of 2024

4. The Additional Chief Secretary,
Labour and Employment Department,
Secretariat, Fort St. George,
Rajaji Road, Chennai – 600 009.

W.P.No.557 of 2024

10.01.2024