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W.P.No.12398 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.12398 of 2021

Mrs.Sivagami

... Petitioner

Vs.

1.The Chairman,
TANGEDCO,
Anna Salai, Chennai 600 002.

2.The Superintending Engineer,
Electricity Distribution Circle,
Dharmapuri 636 705.

3.The Tahsildar,
Harur Taluk,
Harur, Dharmapuri District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 2nd respondent dated 23.11.2020 made in letter K.No.004316/Ni.B.2/U.1/KO.VarisuVelai/2020 dated 23.11.2020 and to quash the same and consequently direct the respondents 1 and 2 to provide appointment on compassionate ground to the daughter of the petitioner Sangeetha, wife of Murugan, for the death of C.Sekar in a suitable post.



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For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.K.Rajkumar,
Standing Counsel for R1 & R2
Mr.T.Chezhiyan, AGP for R3

ORDER

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 2nd respondent dated 23.11.2020 made in letter K.No.004316/Ni.B.2/U.1/KO.VarisuVelai/2020 dated 23.11.2020 and to quash the same and consequently direct the respondents 1 and 2 to provide appointment on compassionate ground to the daughter of the petitioner Sangeetha, wife of Murugan, for the death of C.Sekar in a suitable post.

2. Heard Mr.C.Prabakaran, learned counsel for the petitioner, Mr.K.Rajkumar, learned Standing Counsel for R1 & R2 and Mr.T.Chezhiyan, learned Additional Government Pleader for the third respondent.



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3. The petitioner is the mother of the deceased C.Sekar who worked as a Field Assistant at Narippalli EB Office. The petitioner's son was not married at the time of his death and he died in harness. The petitioner made an application with the second respondent seeking compassionate appointment to the sister of the deceased C.Sekar. The legal heir certificate was also produced to show that Sangeetha is the sister of the deceased and claimed that she can also be considered for compassionate appointment as per the regulation for the compassionate appointment of the Board.

4. A direction has been passed in the Writ Petition filed by the petitioner in W.P.No.3237 of 2019 to consider the application of the petitioner for compassionate appointment without insisting for the legal heir certificate. But the application was rejected on some other grounds through the impugned order.

5. The learned Standing Counsel for the respondents 1 and 2



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submitted that the sister of the deceased was not a dependent on the deceased and she is living at her husband's house. Hence, the request of appointing the sister of the deceased on compassionate ground was dismissed. He further submitted that as per the proceedings in (Per.) FB TANGEDCO Proceedings No.11 dated 11.06.2020, the married sister of the deceased is not qualified to get compassionate appointment.

6. On perusal of the regulations of the respondents in respect of compassionate appointment, it is seen that the father, mother, unmarried brothers and unmarried sisters of the deceased employee of the TANGEDCO is eligible for compassionate appointment. However, law has been well settled on the point that even the married daughters are eligible to get compassionate appointment and there cannot be any discrimination between the married and unmarried daughters.

7. In this regard it is relevant to refer the judgment of the Madurai Bench of this Court rendered in ***J.Selvajanaki Vs. The Inspector General of Police, Technical Services, Mylapore, Chennai-4 and***



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another, reported in 2016 SCC Online Mad 14549, which has charted out the evolution of the rules providing equality in respect of a married daughter in the matter of compassionate appointment. The relevant paragraphs of the above judgment are extracted hereunder:

"6. In similar circumstances, this Court, in W.P.(MD)No.20477 of 2015, dated 09.07.2015, has held as follows:

"6. I have considered the entire issue including the validity of G.O.Ms.No.165, Labour and Employment Department, dated 30.08.2010 in detail in my order dated 13.04.2015 in W.P.No.10565 of 2015 (R.GOVINDAMMAL VS. THE PRINCIPAL SECRETARY, SOCIAL WELFARE AND NUTRITIOUS MEAL PROGRAMME DEPARTMENT, SECRETARIAT AND OTHERS) and held that G.O.Ms.No.165, Labour and Employment Department, dated 30.08.2010 declining to provide compassionate appointment to married daughter, if she got married before making application for compassionate appointment after the death of her father/mother, who was a Government servant, is violative of the provisions of the Constitution. In that order, I have also considered the judgments of this Court reported in G.GIRIJA VS. THE



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*ASSISTANT DIRECTOR (PANCHAYATS),
KANCHEEPURAM DISTRICT [2008 (5) CTC 686]
and KRISHNAVENI VS. SUPERINTENDING
ENGINEER, KADAMPARAI ELECTRICITY
GENERATION BLOCK, COIMBATORE DISTRICT [T
[2013 (8) MLJ 684].*

7. In Govindammal's case (cited supra), I traced the scheme of compassionate appointment in government service with regard to the married daughters. In the original scheme providing compassionate appointment in G.O.Ms.No.560 Labour and Employment Department, dated 03.08.1977, there is a total deprivation for married daughters to seek compassionate appointment. While married sons are eligible to make compassionate appointment, married daughters are ineligible to make application for compassionate appointment.

8. Later, the Government made certain improvements to G.O.Ms.No.560 by issuing G.O.Ms.No.155, Labour and Employment Department, dated 16.07.1993 after 16 years of the issuance of the first Government Order viz., G.O.Ms.No.560.

9. G.O.Ms.No.155, Labour and Employment Department, dated 16.07.1993 provided compassionate



appointment to married daughters of government servant, if the daughter was abandoned by her husband or a divorcee or a widow i.e., G.O.Ms.No.155 included certain categories of married daughters to claim compassionate appointment. However, discriminatory treatment was not removed in total, that is, while marriage is not a pre-condition prescribed in the matter of providing compassionate appointment to sons of a deceased government servant, the same was placed as a condition in the case of daughters.

10. Thereafter, G.O.Ms.No.165, Labour and Employment Department, dated 30.08.2010 was issued making further improvements in the Scheme. As per G.O.Ms.No.165, the married daughter could also claim compassionate appointment, if she was unmarried at the time of making application. In the said Government Order, it is stated that taking into account the decisions of this Court, such relaxation was granted in providing compassionate appointment to the married daughters, who got married subsequent to the death of the Government servant and more particularly after making application for compassionate appointment, i.e, G.O.Ms.No.165 also did not render full justice to women. Still discriminatory treatment was meted out to



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women. While no such condition is prescribed in the case of a son, that the son shall be unmarried at the time of making application after the death of the deceased government servant, a condition is prescribed in the case of daughter that she shall be unmarried at the time of making application for compassionate appointment.

11. Now a further improvement is made in the scheme providing compassionate appointment by issuing G.O.Ms.No.96, Labour and Employment Department, dated 18.06.2012, providing compassionate appointment to married daughter, if the marriage took place after 29.11.2001.

12. In fact, today i.e, 09.07.2015 in W.P.No. 20437 of 2015 [A.Vimala v. The Secretary to Government, L & E Department], I have quashed G.O.Ms.No.96, in so far as it declines compassionate appointment to daughters, who got married prior to 29.11.2001. It is relevant to extract the paragraphs 15 and 16 in this regard:-

"15. In my considered view, this Government order also does not put an end to the discriminatory treatment meted out to the daughters in the matter of providing



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compassionate appointment. Even as per this Government Order, marriage is a bar for a daughter, if she got married prior to 29.11.2001. The daughters, who got married after 29.11.2001 are alone entitled to seek compassionate appointment based on the death of her father/mother, who was a government servant. There is no explicit reason given as to why the cut-off date was fixed as 29.11.2001.

16. The reference column of G.O.Ms.No.96 refers to G.O.Ms.No.212 P & AR Department, dated 29.11.2001. That Government Order, namely G.O.212, is relating to imposition of ban on recruitment in Government service. Hence, I fail to understand as to how the date viz., 29.11.2001 has any nexus to the object of the scheme providing compassionate appointment to the married daughters. Hence, I have no hesitation to declare that the cut-off date fixed in G.O.Ms.No.96 dated 29.11.2001 is arbitrary, illegal and unconstitutional. By such declaration and by quashing paragraphs 3 and 4 of the aforesaid G.O.Ms.No.96 in so far as fixing



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29.11.2001 as the cut-off date, the discrimination meted out to married daughters will be totally wiped out. Accordingly, paragraphs 3 and 4 of G.O.Ms.No.96 Labour and Employment Department, dated 18.06.2012 fixing cut-off date as 29.11.2001 are quashed."

7. In the case on hand, the petitioner got married on 20.05.1999. As the G.O.Ms.No.96, dated 29.11.2001 was already quashed, the petitioner as a married daughter is eligible for appointment on compassionate grounds.

8. Considering the facts and circumstances of the case and also considering the fact that the purpose of providing employment on compassionate ground to a son or daughter or a near relative of the deceased government servant is only to render assistance to the family, which is found in indigent circumstances, I am of the view that the petitioner's case deserves consideration."

8. The above proposition is applicable for ensuring equality between a married sister and unmarried sister also in the matter of compassionate appointment. Hence, the application filed seeking compassionate appointment for a married sister of an unmarried



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employee cannot be denied for the sole reason that she is married.

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9. In view of the above observations, this Writ Petition is allowed and the order of the 2nd respondent dated 23.11.2020 made in letter K.No.004316/Ni.B.2/U.1/KO.VarisuVelai/2020 dated 23.11.2020 is quashed and the respondents 1 and 2 are directed to issue an order of appointment on compassionate grounds to the daughter of the petitioner, who is the sister of the deceased employee, to a post suiting to the scheme within a period of six weeks from the date of receipt of a copy of this order. No costs.

09.02.2024

Index : Yes /No
Internet : Yes/No
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Neutral Citation : Yes / No
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R.N.MANJULA, J.

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To

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