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W.P.No.30615 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

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THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

W.P.No.30615 of 2013

1. S. Jamuna Rani
2. S. Malathi

Petitioners

v

1. The Chennai Port Trust
Rep. by its Chairman
Rajaji Salai
Chennai 600 001

2. The Secretary
Chennai Port Trust
Chennai 600 001

Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records in No.SCT5/14516/2012/GA dated 27.12.2012 on the file of the second respondent and to quash the same and consequently, direct the first respondent to consider the appointment of the second petitioner S. Malathi for any post on compassionate ground arising out of death of deceased employee T. Sundramoorthy, Mazdoor, M.D.L.B. (GPM-No-3346).

For petitioners

Mr.E.Thamilarasan
for Dr.G.Krishnamurthy

For respondents

Mr.S.Haja Mohideen Gisthi



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ORDER

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The order in No.SCT5/14516/2012/GA dated 27.12.2012 passed by the 2nd respondent is under challenge.

2. The 1st petitioner viz., S.Jamuna Rani, W/o.T.Sundaramoorthy, submits that her husband was appointed as Mazdoor in the Traffic Department, Chennai Port Trust, on 15.01.1989 and during the year 1997, he developed chronic schizophrenia and was missing from 20.09.2000. Therefore, she lodged a complaint about the missing of her husband before N-1 Royapuram Police Station on 18.10.2000 and the Royapuram Police gave a report dated 27.07.2008, stating that her husband could not be traced. The 1st petitioner further submits that her application dated 12.12.2012, sent to the respondents for consideration of appointment on compassionate ground, was rejected by the impugned letter dated 27.12.2012. Hence, this writ petition.

3. Heard Mr.E.Thamilarasan, learned counsel representing Dr.G.Krishnamurthy, learned counsel on record for the petitioners and Mr.S.Haja Mohideen Gisthi, learned Standing Counsel appearing for the respondents.



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4. The learned Standing Counsel appearing for the respondents strenuously contended that the 1st petitioner has not registered her name for being considered for compassionate appointment in the Chennai Port Trust within the time limit as per the scheme of compassionate appointment. As per the scheme, the maximum time a dependant's name can be kept under consideration for being offered compassionate appointment is 3 years from the date of death of the employee, subject to the condition that the prescribed Committee has reviewed and certified the penurious condition of the applicant at the end of the 1st and the 2nd year.

5. It is the further argument of the learned Standing Counsel that the request for compassionate appointment can be considered, only if it is made within a year from the date of death of the employee. However, belated applications may be considered within 3 years, in the event of there being any litigation.

6. It appears that the terminal benefits were settled in favour of the petitioners as per this Court's order in the year 2009 and thereafter, the 1st petitioner has made her application on 12.12.2012.



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7. That apart, the 1st petitioner's husband is not alive and his whereabouts are not known, as he developed chronic schizophrenia, which is a psychiatric problem and went missing from 20.09.2000. Though the 1st petitioner lodged a complaint on 18.10.2000, a final report was given by the police concerned only on 27.07.2008 to the effect that her husband T.Sundaramoorthy could not be traced. Thereafter, upon filing of W.P.No.20968 of 2008 by her, by an order dated 24.07.2009 passed by this Court, the 1st respondent has disbursed all the monetary benefits to the petitioners.

8. As per the scheme of compassionate appointment in Chennai Port Trust, the maximum time a person's name can be kept under consideration for offering compassionate appointment is 3 years, subject to the condition that the prescribed Committee has reviewed and certified the penurious condition of the applicant at the end of the 1st and the 2nd year. The scheme further reads that after 3 years, if compassionate appointment is not possible to be offered to the applicant, then, the case of the applicant will be closed finally and will not be considered again.



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9. In this regard, it is relevant to extract the instructions issued by the Department of Personnel and Training in O.M.No.14014/19/2002-Estt(D) dated 05.05.2003 :

“If compassionate appointment to a genuine and deserving dependants is not possible in the first year, due to non-availability of regular vacancy, the prescribed committee may review such cases to evaluate the financial conditions of the family to arrive at a decision as to whether a particular case warrants extension by one more year for consideration for compassionate appointment by the committee, subject to availability of a clear vacancy within the prescribed 5% quota. If on scrutiny by the Committee, a case is considered to be deserving, the name of such a person can be continued for consideration for one more year.”

10. Though the 1st petitioner's husband is said to be missing since 20.09.2000 and she has lodged a complaint on 18.10.2000 and a final report was filed by the Royapuram Police on 27.07.2008. It is relevant to note that as mentioned *supra*, by an order of this Court dated 24.07.2009 in W.P.No.20968 of 2008, the petitioners have got all the monetary benefits and the 1st petitioner has submitted her application to the respondents seeking compassionate appointment on 12.12.2012.



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11. As per the instructions extracted in paragraph No.9, *supra*, and as per the existing scheme for compassionate appointment, the request of the 1st petitioner can be considered, if it is made within 5 years from the crucial date. The 1st petitioner has given an application within 5 years from the date of the final report of Royapuram Police. However, the impugned order was passed, stating that the application was belatedly given, which is factually incorrect, as per the scheme for compassionate appointment in the Chennai Port Trust.

12. In the given circumstances, the order impugned stands quashed.

Consequently, the writ petition stands allowed as mentioned below :

- i. The 1st petitioner shall give an application afresh for consideration of appointment on compassionate ground for anyone of her legal heirs, as she is aged about 60 years, preferably within a period of four weeks from the date of receipt of a copy of this order.
- ii. The respondents shall consider the said application of the 1st petitioner and shall complete the said exercise, within a period of 12 weeks from the date of receipt of the application from the 1st petitioner.

There is no order as to costs.

26.06.2024

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Index : Yes/No

Neutral Citation : Yes/No

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To

1. The Chairman
Chennai Port Trust
Rajaji Salai
Chennai 600 001

2. The Secretary
Chennai Port Trust
Chennai 600 001



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R.KALAIMATHI, J.

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