



WEB COPY



W.P.No.17773 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.17773 of 2023

M.Monica

.. Petitioner

Vs.

- 1.The State Rep by
Secretary to Government,
Health and family Welfare Department,
Secretariat, Chennai – 600 009.
- 2.The Director,
Directorate of Medical and Rural Welfare,
DMS Campus,
Teynampet, Chennai – 600 018.
- 3.The District Collector,
Thiruvannamalai District.
- 4.The Joint Director of Welfare,
Thiruvannamalai.
- 5.The Chief Medical Officer,
Government Hospital,
Cheyyar,
Thiruvannamalai District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India

praying to issue a Writ of Certiorarified Mandamus calling for the



W.P.No.17773 of 2023

records of the 1st respondent in his proceedings in Letter No.3259461/AT2/2022-4, dated 16.03.2023 and quash the same and consequently direct the respondents to give appointment to the petitioner under compassionate ground for the post of Junior Assistant or any other suitable job, subsequent death of petitioner's mother namely R.Saraswathy while she was in service.

For petitioner : Mr.P.Murali
For RR 1, 2, 4 & 5 : Mr.M.Bindran
Additional Government Pleader
For R3 : Mr.P.Balathandayutham
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings of the 1st respondent in Letter No.3259461/AT2/2022-4, dated 16.03.2023 and for a consequential direction to the respondents to give compassionate appointment to the petitioner in the post of Junior Assistant or any other suitable job.

2.The case of the petitioner is that her mother R.Saraswathy was working as a Nurse in the Government Hospital, Cheyyar. She died on



06.10.2019 due to kidney failure leaving behind the petitioner and her brother M.Vignesh. The further case of the petitioner is that she has studied B.E. and has also passed the typewriting exams. On 15.02.2021, the petitioner applied for a job under compassionate ground to the respondents. The 1st respondent through proceedings dated 16.03.2023 has rejected the claim made by the petitioner seeking for compassionate appointment. Aggrieved by the same, the present writ petition has been filed before this Court.

3.The 1st respondent has filed counter affidavit. In the counter affidavit, it is stated that as such there are no vacancies available and therefore, the request made by the petitioner cannot be considered. A further stand has been taken in the counter to the effect that the petitioner is not suffering from any indigent circumstances and therefore, she is not entitled for being considered for compassionate appointment. This is more so due to the fact that the petitioner's husband is employed in a private enterprise and he is earning nearly a sum of Rs.2,16,000/- per annum. Accordingly, the 1st respondent has sought for dismissal of the writ petition.



4. Heard the learned counsel for the petitioner, learned Additional Government Pleader for respondents 1, 2, 4 & 5 and the learned Special Government Pleader for 3rd respondent.

5. This Court wanted to ascertain the financial status of the family of the petitioner. Initially, it was informed to this Court as if the husband of the petitioner is running a parcel service and is earning sufficiently. In view of the same, this Court sought for a status report and accordingly, the Tahsildar, Cheyyar filed a status report and the relevant portions are extracted hereunder:

“6) It is humbly submitted that since the personal enquiry with the petitioner's husband Thiru.Jeevan revealed that he is only an employee of the M/s.Mettur Super parcel service. The enquiry records relating to the report dated 28.2.2023 already furnished to the second respondent was examined and the examination revealed that when the concerned Village Administrative Officer visited the home of the petitioner the home was found locked and hence he obtained the mobile contact number of the petitioner from the nearby person and contacted the petitioner over phone. The petitioner stated that she was in a far off place and was ready to answer for the queries through phone call itself. During the enquiry by the Village Administrative Officer, the petitioner have informed him that her



husband was running a M/s.Mettur parcel service branch in Cheyyar and getting a monthly income of Rs.18,000/-. Accordingly, a report was furnished to the second respondent on 28.2.2023.

7) It is humbly submitted that consequent on the filing of the present writ petition, the independent family circumstances of the writ petitioner has been examined again by conducting personal enquiry with Thiru.Jeevan, the petitioner husband. During the enquiry, Thiru.Jeevan gave a statement that he is only working as a load man in M/s.Mettur Super parcel service, Cheyyar from 07.7.2020 and he is getting a monthly salary of Rs.16,000/- and the above parcel service is having 535 branches all over in Tamil Nadu."

6.It is now too well settled that compassionate appointment on the ground of death in harness or medical invalidation is permissible only where the person concerned is suffering from indigent circumstances. The basic criteria is to see what is the financial status of the family at the time when the deceased died while in service.

7.The purpose of providing employment to a dependent of a Government servant dying in harness in preference to anybody else is to mitigate the hardship caused to the family of the employee on account of his / her unexpected death while still in service. To alleviate the distress



of the family, such compassionate appointment are permissible provided that there are rules providing for such appointment. The reason for making compassionate appointment, which is exceptional, is to provide immediate financial assistance to the family of a Government servant who dies in harness, when there is no other earning member in the family. Compassionate appointment is given solely on humanitarian grounds. Therefore, being an exception, the scheme which provides for compassionate appointment has to be strictly construed and confined only to the purpose it seeks to achieve.

8.In the case in hand, it is quite clear that the husband of the petitioner is working in a private establishment and is also earning a monthly salary. The report of the Tahsildar also says that he is earning a monthly salary of Rs.16,000/-. The learned counsel for the petitioner submitted that the petitioner is entitled to be considered for compassionate appointment since the annual income is not exceeding Rs.2,00,000/-.

9.In so far as a married women is concerned, there is no dispute to the fact that she is also entitled to be considered for compassionate



appointment. Law on that issue is now too well settled. That by itself is not a criteria and the Court has to see the financial status of the married women. The learned counsel brought to the notice of this Court some of the earlier orders passed in writ petitions, wherein on the facts of the case available in those writ petitions, this Court had directed consideration for compassionate appointment. While it comes to a married women, the Court must always see if the family is supported by her husband. In which case, the women cannot be held to be suffering from indigent circumstances. In cases of a destitute women or a women who has been left in lurch from the matrimonial home and she has to take care of herself and / or her children, those are cases where the married women will be deserving to get compassionate appointment. Therefore, while considering the claim of a married women, Court must always look into the surrounding circumstances and the situation in which the married women is placed. In the case in hand, the husband of the petitioner is working in a private establishment and is earning monthly salary. He is also taking care of the family.

10. Therefore, under such circumstances, this Court is not inclined to direct granting compassionate appointment to the petitioner. This



W.P.No.17773 of 2023

Court is not inclined to interfere with the impugned proceedings of the 1st respondent in Letter No.3259461/AT2/2022-4, dated 16.03.2023 and accordingly, this writ petition stands dismissed. No costs.

05.08.2024

krk

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

- 1.The State rep by
Secretary to Government,
Health and family Welfare Department,
Secretariat, Chennai – 600 009.
- 2.The Director,
Directorate of Medical and Rural Welfare,
DMS Campus,
Teynampet, Chennai – 600 018.
- 3.The District Collector,
Thiruvannamalai District.
- 4.The Joint Director of Welfare,
Thiruvannamalai.
- 5.The Chief Medical Officer,
Government Hospital,
Cheyyar,
Thiruvannamalai District.



WEB COPY



W.P.No.17773 of 2023

N.ANAND VENKATESH, J.

krk

W.P.No.17773 of 2023

05.08.2024