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W.P.No.19033 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.No.19033 of 2014

K.Padmavathi

... Petitioner

Vs.

1.The Principal District and Sessions Judge,
Vellore District,
Vellore.

2.The Secretary to the Government,
Labour and Employment Department,
Secretariat, Fort St.George,
Chennai – 600 009.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent herein vide his proceedings Ve.Do.Ve No.1642/2014 dated 13.02.2014 and quash the same, consequently directing the 1st respondent herein to place application dated 18.12.2013 given by the petitioner to the 2nd respondent herein.



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For Petitioner : Mr.S.N.Ravichandran
For R1 : Mr.V.Ayyadurai
Senior Counsel
for Mr.A.Durai Eswar
For R2 : Mr.T.Chandrasekaran
Special Government Pleader

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

The order of rejection dated 13.02.2014, rejecting the claim of the writ petitioner for compassionate appointment is under challenge in the present writ petition.

2. The reason for rejection of appointment on compassionate ground was that, the petitioner crossed the maximum age limit of 35 years as contemplated under the scheme of compassionate appointment in G.O.Ms.No.134 Labour and Employment (Q-1) Department, dated 22.10.1998.

3. The fact remains that the writ petitioner's deceased brother died on 27.04.2013, while he was in service in the Judicial Department. The



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petitioner submitted an application on 18.12.2013 seeking appointment on compassionate grounds. The said application was rejected. Therefore, the present writ petition came to be instituted.

4. Mr.S.N.Ravichandran, learned Counsel for the petitioner would submit that the petitioner belongs to the Scheduled Caste community. Therefore, she is entitled for relaxation of age limit by 5 years as per the Service Rules. Thus, the order of rejection is unsustainable.

5. In support of the said contention, Mr.S.N.Ravichandran relied on the Judgment of the Hon'ble Division Bench of this Court in the case of ***C.Jayapal Vs. The Director of Medical Education, Chennai-10 and Ors.***, reported in ***2005 (5) CTC 655*** wherein, the following observations are made:

“5. We have already observed that the applicant belongs to Scheduled Caste Community. The Government of Tamil Nadu, Labour and Employment Department, by letter No.46571/N1/82-3 dated 24.11.1982, clarified the question of age relaxation in the case of Scheduled Caste and Scheduled Tribe as under:



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“2. The Government have examined the above points and issued the clarifications as follows:

(i) The dependants of deceased Governments Servants (belonging to Schedule Caste/Scheduled Tribe) can be appointed on compassionate grounds in relaxation of age rule, even if they exceed the age limit prescribed in the Special Rules, when it is more beneficial to the individual.”

Though the existence of the said instruction is not disputed, the fact remains, the respondents have not considered the relevant fact that in the case of appointment on compassionate ground, the age limit prescribed in the Special Rules can be relaxed if applicant belongs to SC/ST. As per G.O.No.1579 dated 21.07.1981, the maximum age as far as son or daughter is concerned is 30 and widow of the deceased is 31 years, in the case of employment on compassionate ground. In the letter dated 11.03.1982, the Government Servant, the age of son or daughter/widow should not be more than 30/40 years. In G.O.Ms.No.155 L & E dated 16.07.1993, in para-3, it is stated that when a dependent of the family is employed, the factors to be ascertained are, whether he is regularly employed and is already supporting the family; if the person was employed even before the death of the Government servant and was

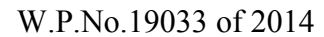


living separately without extending any help to the family, then the case of other eligible dependent should be considered.”

5.1 In the case of ***The Secretary to Government of Tamil Nadu Vs. G.Parthiban*** dated ***16.10.2015*** in ***W.A.No.1565 of 2015***, the Hon'ble Division Bench made the following observations:

“3. Before the Writ Court, contentions have been made that the Government have relaxed the condition, regarding the age, and while considering a similar case in W.P.No.744 of 2002 dated 27.10.2005, a Hon'ble Division Bench has issued a direction to the Government to extend the benefits to the petitioner therein. Submissions have been made that in yet another decision made in W.P.No.6082 dated 23.08.2011, this Court has issued similar directions to relax the age limit, in the case of Schedule Caste candidates.”

6. The legal principles governing the concessional scheme of Compassionate appointment is that, it cannot be claimed as an absolute right. It is a Special Scheme implemented by the Government to mitigate the circumstances arising out of the sudden death of Government employee. The



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7. In the present case, the brother of the petitioner was working in the Judicial Department and died in harness on 27.04.2013 and the petitioner was unmarried. Thus, she made an application on 18.12.2013. Since she crossed the maximum age limit of 35 years, the Authorities rejected the application. The petitioner as of now is aged about 46 years.

8. The compassionate appointment scheme being a special scheme and concession, the age relaxation granted for reserved category candidates under the Service Rules is not applicable. The terms and conditions stipulated under the Scheme alone is to be followed. The age relaxations are applicable only in respect of recruitments in accordance with the Service Rules in force and while extending the reservation to the reserved categories. Therefore, the age relaxation granted to the reserved class category under the Recruitment Rules cannot be applied to the scheme of compassionate appointment, which is a stand alone special scheme, wherein, the terms and conditions stipulated alone are to be applied. Therefore, grant of age relaxation, educational qualification relaxation or any other relaxation under the Service Rules would not arise at all.



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9. In respect of two Division Bench Judgments, relied on by the petitioner, there is no reference with regard to Government Order issued in G.O.Ms.No.134 Labour and Employment (Q-1) Department, dated 22.10.1998, wherein, the maximum age limit prescribed for unmarried Sisters is 35 years. Therefore, an unmarried Sister of a deceased employee is not entitled to claim compassionate appointment beyond the age limit of 35 years. The said issue has not been adjudicated, since it was not brought to the notice of the Hon'ble Division Bench on earlier occasions, with reference to Judgments relied upon by the petitioner.

10. In view of the facts and circumstances, we do not find any infirmity in respect of the reasons furnished for rejecting the application submitted by the petitioner for compassionate appointment. Consequently, this Writ Petition stands **dismissed**. No costs.

[S.M.S.J.] [K.R.S.J.]
14.03.2024

Index : Yes/No
Speaking Order : Yes/No



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Neutral Citation : Yes/No
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To

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- 2.The Secretary to the Government,
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