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W.P.No.19292 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.19292 of 2020

S.Sushmitha

... Petitioner

Vs.

1.The State of Tamil Nadu rep. by
The Secretary,
Public Works Department,
Fort St.George,
Chennai – 600 009.

2.The Engineer-in-Chief, W.R.D.,
& Chief Engineer (General),
Public Works Department,
Chepauk, Chennai – 600 005.

3.The Executive Engineer,
Public Works Department,
Central Pennar Division,
Thiruvanamalai – 606 603.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying
for issuance of Writ of Certiorarified Mandamus calling for the records
pertaining to the impugned communication No.1008/KO
2344/2016/No/28.08.2020 dated 28.08.2020 on the file of the third



W.P.No.19292 of 2020

respondent and quash the same as illegal, arbitrary and unconstitutional and consequently direct the respondents to grant compassionate appointment to the petitioner.

For Petitioner : M/s.Geeta Ramaseshan

For Respondents 1 to 3 : Mr.S.Prabhakaran,
Government Advocate

ORDER

This writ petition has been filed by the petitioner to call for the records pertaining to the impugned communication No.1008/KO 2344/2016/No/28.08.2020 dated 28.08.2020 on the file of the third respondent and quash the same as illegal, arbitrary and unconstitutional and consequently direct the respondents to grant compassionate appointment to the petitioner.

2. The case of the petitioner is that the petitioner's father worked as a Section Officer in Public Works Department, Aarani and died in harness on 09.05.2007, leaving behind his wife and daughters as legal heirs. At the time of death of her father, the petitioner was only eleven years and her sister was



only seven years old. Unfortunately, petitioner's mother also passed away under extremely violent and tragic circumstances on 21.02.2008. Thereafter, the petitioner and her sister were placed under the temporary custody of the NGO Madras Christian Council of Social Service.

2.1. Subsequently, the paternal uncle, maternal aunt of the petitioner and the NGO approached this Court for want of permanent custody of the petitioner and her sister, and this Court vide order dated 02.12.2009 granted the custody of the petitioner and her sister to one Mr.V.Rangarajan, who is their maternal uncle and also appointed Ms.Geeta Ramaseshan, Advocate, as guardian of their property. This being the case, the petitioner completed her Civil Engineering course in the year 2019 and made a representation dated 20.08.2020 before the third respondent, seeking compassionate ground appointment on the death of her late father. However, the same was rejected by the third respondent vide Communication No.1008/KO2344/2016/No/28.08.2020 dated 28.08.2020. Challenging the same, the petitioner has come forward with the present writ petition.



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3. Learned counsel for the petitioner submitted that the petitioner was minor at the time of her father's death. Hence, she could not apply for appointment under compassionate ground within three years after the demise of her father. Further, the petitioner attained the majority of 21 years only on 25.09.2017 and made representation on 20.08.2020 for compassionate ground appointment. The respondents can use their discretion in special circumstances like the petitioner, but they rejected the representation of the petitioner.

4. Learned counsel for the petitioner would further submit that the whole object of granting compassionate employment is to enable the family to tide over the crisis left by the death of the deceased family member which in the petitioner's case is very acute.

5. Counter Affidavit was filed by the respondents on 18.11.2021. Learned Government Advocate appearing for the respondents would submit that the petitioner submitted a representation on 01.09.2016 to the third respondent stating that at the time of death of her father, she was 11 years old



W.P.No.19292 of 2020

and now she became major and requested to grant appointment on compassionate grounds to her.

6. Learned Government Advocate appearing for the respondents would further submit that as per G.O.Ms.No.120 Labour and Employment Department dated 26.06.1995, the appointment on compassionate grounds would be granted to the legal heirs, who have attained the age of 18 years within three years from the date of death of a Government Servant. In the present case, the petitioner was 11 years old at the time of death of her father and she attained the age of 18 years only after 7 years from the date of her father's death. Hence, her representation dated 01.09.2016 was returned on 09.09.2016.

7. Learned Government Advocate appearing for the respondents would further submit that as per G.O.Ms.No.120, Labour and Employment Department dated 26.06.1995, the petitioner is not eligible to claim appointment on compassionate grounds. If the petitioner's request is complied, then it will open the flood gate to similarly placed persons which



W.P.No.19292 of 2020

would be hindrance to the smooth administration.

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

9. The father of the petitioner was working as Section Officer in Public Works Department of Tamil Nadu State Government and died in harness on 09.05.2007. Being born in the year 1996, the petitioner was only eleven years old at the time of her father's death and attained the majority (18 years) only in the year 2014 i.e., after seven years from the death of her father. Thereafter, she made a representation in the year 2016 and the same was rejected by the third respondent vide office Lr.No.1676/KO/2344/Ni1, dated 09.09.2016.

10. Thereafter, the petitioner made another representation on 20.08.2020 before the third respondent and the same was also rejected stating that the petitioner could have applied within three years from the demise of her father and after attaining the age of majority. In the case on hand, the



petitioner attained the majority in the year 2014 and submitted an application for compassionate ground appointment in the year 2016 and 2020, which is not disputed and admitted by the respondents.

11. In view of the above, the case of the petitioner has to be considered for appointment under compassionate ground only on the ground of sympathy and on humanitarian consideration and not on the basis of Government Order or rules for the reasons stated below:

(i) The petitioner was minor and aged only eleven years at the time of death of her father i.e., on 09.05.2007;

(ii) Her mother was also murdered in the next year 2008;

(iii) After the death of her father, the petitioner, her mother and sister have no means for survival and they approached the Women's Organisation to accommodate them;

(iv) The petitioner is a Civil Engineering graduate and obtained her degree in the year 2019;

(v) This Court by order dated 02.12.2009 granted the custody of the petitioner and her sister to one Mr.Rangarajan their maternal uncle



W.P.No.19292 of 2020

and appointed Ms.Geetha Ramaseshan, Advocate as the guardian of their property. This clearly shows that the petitioner and her sister were dependent on their maternal uncle namely Mr.Rangarajan.

(vi) The appointment of the petitioner under compassionate ground is necessary and it will not only help for her survival, livelihood but also to take care of her sister.

12. In view of the above facts and circumstances of the case, the impugned communication No.1008/KO2344/2016/No/28.08.2020 dated 28.08.2020 passed by the third respondent is liable to be quashed. Accordingly, the same is quashed and consequently, the respondents are directed to grant appointment on compassionate ground to the petitioner based on her educational qualification, within a period of six weeks from the date of receipt of a copy of this order.

13. In the result, this writ petition stands allowed with the aforesaid observation and direction. No costs.

18.12.2024



W.P.No.19292 of 2020

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To:

- 1.The Secretary,
Public Works Department,
Fort St.George,
Chennai – 600 009.
- 2.The Engineer-in-Chief, W.R.D.,
& Chief Engineer (General),
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Chepauk, Chennai – 600 005.
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J.SATHYA NARAYANA PRASAD,J.

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W.P.No.19292 of 2020

W.P.No.19292 of 2020

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