



W.P.No.23982 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 26.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.23982 of 2022
and W.M.P.Nos.22963 and 22966 of 2022

P.Chandru

.. Petitioner

Versus

1. The Government of Tamil Nadu,
Rep. by Principal Secretary to the Government,
Social Welfare and Women Right Department,
Fort St. George,
Chennai - 600 009.
 2. The Director of Social Welfare,
Chepauk,
Chennai - 600 005.
 3. The District Collector,
Cuddalore District,
Cuddalore.
 4. The Block Development Officer,
Panruti Panchayat Union,
Panruti,
Cuddalore District.
- .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus calling for the records of the respondents issued in relation to G.O.Ms.No.48, dated 18.08.2021 and



W.P.No.23982 of 2022

proceedings issued in Na.Ka.No.PT1/558/2022, dated 27.05.2022 issued by 1st and 3rd respondents respectively and quash the same and issue a consequential direction to the respondent to appoint the petitioner in a suitable post under the control of the respondents on compassionate ground as per his qualification.

For Petitioner : Mr.M.Padmanaban

For Respondents : Mr.P.Ganesan

ORDER

This Writ Petition is filed seeking to quash the G.O.Ms.No.48, dated 18.08.2021 issued by the first respondent and the proceedings of the third respondent, dated 27.05.2022 and consequently, to direct the respondents to appoint the petitioner in a suitable post under the control of the respondents on compassionate ground as per his qualification.

2. The facts relating to the disposal of the Writ Petition are that the petitioner's father, *N.Pachaiyappan*, died in harness while in service on 10.11.2020, while working as Noon Meal Scheme Organizer at Panchayat Union Elementary School Noon Meal Center, Elathampattu, Panruti. Thereupon, since the petitioner's family was in indigent circumstances and immediate penury, the petitioner applied for appointment on compassionate



W.P.No.23982 of 2022

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grounds on 21.12.2021. The same is rejected by the order, dated 27.05.2022 on the ground that only female legal heirs can be appointed on compassionate ground. The petitioner, therefore, has filed this present Writ Petition challenging the G.O.Ms.No.48, dated 18.08.2021 and the order of the third respondent, dated 27.05.2022.

3. *Mr.P.Ganesan*, learned Government Advocate for the respondents submits that the Government Order has already been upheld by this Court and the challenge to the said Government Order cannot be entertained by this Court once again.

4. In reply thereof, the learned Counsel for the petitioner submits that in the said case where the Government Order was upheld i.e., in W.P.(MD).No.12263 of 2022 as also in other similarly situated cases in W.P.(MD).No.6186 of 2022, even while upholding the Government Order, the respondents were directed to forward the application to the District Collector concerned for the purpose of considering the case of the writ petitioner along with the General List of persons to be considered under



W.P.No.23982 of 2022

compassionate appointment in respect of the other posts/departments.

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Therefore, the same order can be passed in the instant case also.

5. I have considered the rival submissions made on either side and perused the material records of the case.

6. The order in W.P.(MD).No.12263 of 2022 reads as follows :-

" 2. The Government, in a recent order in G.O.Ms.No.48, Social Welfare and Woman Rights Department dated 18.08.2021, has ordered that only the female legal heirs can be considered for appointment to the post of Noon Meal Organizer and that the male legal heirs are not entitled for the said post.

3. In view of the aforesaid Government Order, I do not find any infirmity in the impugned order passed by the fourth respondent. Accordingly, the Writ Petition stands dismissed. However, it is open to the petitioner to make a representation seeking for compassionate appointment, to any other post other than Noon Meal Organizer and on receipt of such representation, the concerned respondent shall consider it, on its own merits and pass appropriate orders in accordance with law as expeditiously as possible. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed. "

7. Even the prayer in the said Writ Petition was only challenging the order of rejection for compassionate appointment and the same is as follows:-



W.P.No.23982 of 2022

" Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th respondent in his proceedings in Na.Ka.A5/782/20 dated 19.04.2021 and quash the same as illegal and consequentially to direct the respondents to provide employment to the petitioner as Noon Meal Organizer on compassionate ground or in any entry level post by taking into account of his indigent circumstances and it terms of order made in W.A.(MD) No.702 of 2007 dated 08.01.2008 and in the light of G.O.Ms.No.125 Social Welfare and Nutritious Meal programme Department dated 18.08.2010 within the period that may be stipulated by this Court."

Therefore, it cannot be said that in the said case, the Government Order impugned in the present Writ Petition was upheld.

8. As far as the Noon Meal Scheme is concerned, there cannot be any quarrel over the reservation of the said post to women. Whereas, if the said employees died in harness while in service, the respondents themselves have included the said employment also within the scheme of compassionate appointment. The only thing is that the impugned Government Order states that since all the posts are reserved only for women candidates, compassionate appointment cannot be considered in respect of male candidates. The said reasoning makes a discrimination on the basis of sex. It not only affects the male children of female employees, but, effectively puts the female employees a par below to that of their male



W.P.No.23982 of 2022

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counterparts. The object of providing compassionate appointment is to provide succor to the family which is in penury. Just because the woman employee has left only a male legal heir/son, then, compassionate appointment cannot be deprived. Now, essentially, the G.O.Ms.No.48, dated 18.08.2021 discriminates and therefore, will not stand the scrutiny of Articles 14 & 16 of the Constitution of India. Accordingly, the same is declared to be illegal to the extent it totally denies the benefit to the male employees.

9. On the other hand, as directed by this Court in the earlier orders, if 100% of the vacancies in a particular department is reserved only for women, then, the applications have to be forwarded to the District Collector or to the Personnel and Administrative Reforms Department as the case may be, to be considered under the general pool for being appointed in other suitable posts for compassionate appointment.

10. In view thereof, this Writ Petition is allowed on the following terms :-



W.P.No.23982 of 2022

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(i) The Government Order in G.O.Ms.No.48, dt.18.08.2021 is declared to be illegal and violative of Articles 14 and 16 of the Constitution of India to the extent it excludes male heirs completely from compassionate appointment;

(ii) Secondly, the impugned order of the third respondent, dated 27.05.2022 shall stand quashed;

(iii) The respondents are directed to forward the application of the petitioner to the District Collector, Cuddalore district for consideration for employment in any other suitable posts along with other candidates according to the seniority subject to the eligibility of the petitioner;

(iv) The said exercise of forwarding it to the District Collector, Cuddalore district shall be completed within four weeks from the date of receipt of a copy of this order;

(v) Upon receipt of the said application, the District Collector, Cuddalore district may consider the same along with the other applications depending on the application seniority and appoint the petitioner on compassionate basis if he is eligible upon consideration on merits in accordance with seniority subject to availability of the vacancies;



W.P.No.23982 of 2022

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(vi) There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

26.06.2024

Neutral Citation : yes
grs

To

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Social Welfare and Women Right Department,
Fort St. George,
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2. The Director of Social Welfare,
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Chennai - 600 005.
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D.BHARATHA CHAKRAVARTHY, J.

grs

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