



W.P.No.24310 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	22.11.2023
Pronounced on	30.01.2024

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.24310 of 2023

K.Mahalakshmi

...Petitioner

Vs.

1.The Director General of Police,
O/o The Director General of Police,
Mylapore, Chennai – 600 004.

2.The District Superintendent of Police,
Kancheepuram District,
Kancheepuram.

3.The Superintendent of Police,
Dindigul District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Certiorarified Mandamus, to call for the records connected in Na.Ka.No.A9/24487/376/2020 dated 12.05.2023 passed by the 3rd respondent to quash the same and consequently direct the respondents to provide compassionate appointment to Praveen Kumar, Son of Late Kumar, aged 29 years residing at 53, Jeeyar Narayanapalayam Street, Kancheepuram.



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For Petitioner : Mr.M.Padmanaban

For Respondents : Mrs.V.Yamuna Devi,
Special Government Pleader

ORDER

Heard Mr.M.Padmanaban, learned counsel for the petitioner and Mrs.V.Yamuna Devi, learned Special Government Pleader for the respondents.

2. The petitioner's husband V.Kumar, Head Constable HC-H29, died on 05.05.2005. After about two months from his death, the petitioner, who is a widow, had made an application on 24.07.2005, seeking for compassionate appointment for herself. The application was kept pending for more than 15 long years and ultimately, on 31.12.2020, the respondents had issued an appointment order. In the meantime, after the petitioner had made the application in the year 2005, she had met with an accident, owing to which, she suffered 70% disability in her vision in both eyes. When the respondents had issued the appointment order on 31.12.2020 as a Data Entry Assistant, she had expressed her inability to take up the job because of her disability and therefore, sought for appointment in favour of her second son, namely



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Praveen Kumar, through a representation dated 19.02.2021. However her representation in this regard has been rejected through the impugned order dated 12.05.2023, on the ground that an alternate application can be considered only when the legal heir of the deceased Government servant expires pending consideration of the application for compassionate appointment and not for physical disability.

3. The learned counsel for the petitioner submitted that owing to the 70% disability in the petitioner's vision, the petitioner cannot perform the duties of a Data Entry Assistant and furthermore, she has also reached the age of 54 years, in view of the delayed consideration of her application for over 15 years.

4. Per contra, the learned Special Government Pleader submitted that the guidelines for compassionate appointment are provided for under G.O.(Ms).No.18, Labour and Employment (Q1) Department, dated 23.01.2020, which does not provide for an alternate employment to a legal heir on the ground that the legal heir has become physically disabled and therefore, in the absence of any regulations or guidelines for altering the



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appointment order to another legal heir, the petitioner's request cannot be considered and thus, there is no infirmity in the impugned order.

5. The eligibility of a legal heir of a deceased Government servant to seek for compassionate appointment, in the present case, is not under dispute. As a matter of fact, when the Government employee had died on 05.05.2005, the application was made by his widow/petitioner on 24.07.2005 itself, which is after about 2 months from the death. The respondents have also considered her application positively and granted her compassionate appointment on 31.12.2020. It is only the delay in considering the application, after more than 15 years, which has caused inconvenience to the petitioner to accept the job. The reason assigned by her for the inability to take the appointment is because of the accident she had met during the pendency of the application for compassionate appointment, whereby she had lost 70% of her vision in both eyes. The reason assigned by her for not taking up the job and seeking for compassionate appointment for her son is, thus, totally justifiable.

6. No acceptable explanation has been rendered by the respondents for having considered her application, after an inordinate delay of 15 years. The



only reason adopted by the respondents in the impugned order is that there is no provision in G.O.(Ms).No.18, dated 23.01.2020 for granting alternate employment to another legal heir on the ground of physical disablement.

7. The reliance placed by the respondents on G.O.(Ms).No.18 also seems to be a misconception, owing to the reason that G.O.(Ms).No.18, dated 23.01.2020 came to be superceded through G.O.(Ms).No.33, Labour Welfare and Skill Development (Q1) Department, dated 08.03.2023, through which the Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023, (hereinafter referred to as 'the Rules') came to be notified. In G.O.(Ms).No.18, an alternate application was made permissible from another legal heir of the deceased Government servant only in case of death of the legal heir after the application is made. However, under Rule 9 of the subsequent Rules, an alternate application, on the ground of ill health of the original legal heir, was made permissible. The relevant Rule is extracted hereunder:-

“9. Alternative application. - An applicant, within a period of one year from the date of making the application for appointment under these rules, on the



ground of his ill health or for any other reason, on his request in writing, may be permitted by the appointing authority to nominate any other member of the family to make an alternative application, subject to eligibility in the order of priority specified in sub-rule (2) of rule 3:

Provided that, no such alternative application shall be permitted to be made more than once.

Provided further that, no such application shall be permitted to be made after the appointment of the original applicant.

(2) In the case of death of an applicant before being provided with an appointment under these rules, the other eligible member of the family, as per the order of priority specified in sub-rule (2) of rule 3, may make an alternative application for the appointment.”

8. A mere reading of the aforesaid Rule makes it explicitly clear that an alternate application, on the ground of ill health, is permissible. The Rule came to be notified on 08.03.2023. The petitioner’s 2nd son had already submitted the alternate application on 19.02.2021 itself. Rule 9 specifies that such an alternate application should be made within a period of one year from



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the date of making the application for appointment under these Rules on the ground of ill health of the original applicant. Since the Rules came to be notified only on 08.03.2023, an application within one year from thereon, i.e., on or before 07.03.2024 will be well within time. On the date of consideration of the petitioner's case by this Court, the petitioner's son was still entitled to make an alternate application. Thus, the omission on the part of the respondents to refer to Rule 9 of the Rules that came to be notified on 08.03.2023 and placing reliance on the superceded G.O.(Ms).No.18, for the purpose of rejecting the petitioner's request for alternate application, cannot be sustained.

9. In view of the fact that no other reason has been assigned by the respondents to hold the petitioner's son as ineligible, he would be entitled to seek for compassionate appointment.

10. In the result, the Writ Petition stands allowed and the impugned order dated 12.05.2023 passed by the 3rd respondent herein is quashed. Consequently, there shall be a direction to the 1st respondent herein to



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forthwith pass orders on the petitioner's representation dated 19.02.2021 and
issue an appointment order to any suitable post that her son Praveen Kumar
may be qualified for, within a period of three (3) months from the date of
receipt of a copy of this order. No costs.

30.01.2024

Index:Yes
Neutral Citation:Yes
Speaking order
hvk



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WEB COPY To

- 1.The Director General of Police,
O/o The Director General of Police,
Mylapore,
Chennai – 600 004.
- 2.The District Superintendent of Police,
Kancheepuram District,
Kancheepuram.
- 3.The Superintendent of Police,
Dindigul District.



WEB COPY



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M.S.RAMESH,J.

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**PRE-DELIVERY ORDER MADE IN
W.P.No.24310 of 2023**

30.01.2024