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W.P. No.24466 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09-12-2024**

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP. 24466 of 2024

S.BHAGYALAKSHMI

W/O.LATE SUB.M.SHYAM SINGH (JC -312783P)

NO.1/229, ELANGALOPATTI VILLAGE POST,
PALACODE TALUK, DHARMAPURI- 636 808.

PETITIONER(S)

Vs

THE DIRECTOR

DIRECTORATE OF EX- SERVICEMENS WELFARE,
OFFICE OF THE DIRECTORATE OF EX-
SERVICEMENS WELFARE, NO.22 RAJA
MUTHAIAH SALAI, CHOO LAI, CHENNAI- 03.

RESPONDENT(S)

For Petitioner(s):

M.JOTHIKUMAR

For Respondent(s):

MR. L.S.M. HASAN FIZAL, AGP TAKES NOTICE
FOR RESPONDENTS

ORDER

Today the matter is listed under the caption “for being mentioned”.

2. Learned counsel appearing for the petitioner submitted that though the impugned rejection order has been passed by the second respondent on 14.08.2024, however, inadvertently it has been typed as 14.08.2022 instead of 14.08.2024 in paragraph Nos.10 and 11 of the order dated 30.09.2024. Hence, paragraph Nos.10 and 11 of the order dated 30.09.2024 in W.P.No.24466 of 2024 shall stand modified as follows:



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“10. In the instant case, from the aforesaid address proof, which the petitioner's husband possessed discloses that he was a resident of Tamil Nadu and non-native of Karnataka. Hence, the rejection order, which is impugned herein, dated 14.08.2024 passed by the 2nd respondent is unsustainable and bad in law.

11. In terms of the above, the impugned order, dated 14.08.2024 passed by the 2nd respondent suffers from illegality and the same is liable to be quashed. Accordingly, the the impugned order, dated 14.08.2024 passed by the 2nd respondent is quashed and the writ petition stands allowed with the aforesaid reasonings.

No costs. “

3. Registry is directed to carry out the necessary correction in the order dated 30.09.2024 and issue fresh copy of the order to the learned counsel for the parties.

09-12-2024

To

1. THE DIRECTOR

DIRECTORATE OF EX- SERVICEMENS WELFARE,
OFFICE OF THE DIRECTORATE OF EX-
SERVICEMENS WELFARE, NO.22 RAJA
MUTHAIAH SALAI, CHOOLAI, CHENNAI- 03.

2. THE ASSISTANT DIRECTOR

THE EX- SERVICEMENS WELFARE OFFICE, OFFICE OF THE
DIRECTORATE OF EX- SERVICEMENS WELFARE, DHARMAPURI-
636 705.

RAP



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W.P. No.24466 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.24466 of 2024

S. Bhagyalakshmi

... Petitioner

Vs

1. The Director,
Directorate of Ex-Servicemen's Welfare,
Office of the Directorate of Ex-Servicemen's Welfare,
No.22, Raja Muthiah Salai,
Choolai,
Chennai – 600 003.

2. The Assistant Director,
The Ex-Servicemen's Welfare Office,
Office of the Directorate of
Ex-Servicemen's Welfare,
Dharmapuri – 636 705.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in Na.Ka.No.2915/2022/A2, dated 14.08.2024 passed by the 2nd respondent and quash the same as illegal and consequently direct the 2nd respondent to issue a Dependant Certificate / 3rd Priority Certificate for the wards of serving soldiers.



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For petitioner : Mr.A.S. Balaji
for
Mr.K.Kanagendran
For respondents : Mr.L.S.M. Hasan Fizal,
Addl. Govt. Pleader

ORDER

Heard Mr.A.S. Balaji, learned counsel for the petitioner. Mr.L.S.M. Hasan Fizal, learned Additional Government Pleader accepts notice on behalf of the respondents. By consent of both the parties, this writ petition has been taken up for final disposal at the admission stage itself.

2. This writ petition has been filed seeking for quashment of the impugned order in Na.Ka.No.2915/2022/A2, dated 14.08.2024 passed by the 2nd respondent and for consequential direction to the 2nd respondent to issue a Dependant Certificate / 3rd Priority Certificate for the wards of serving soldiers.

3. It is averred that the petitioner is residing in Elangalopatti Village, Palacode Taluk, Dharmapuri District along with her daughter and son. Her husband died while he was in service in Indian Army. Her daughter has applied for MBBS seat in Ex.Serviceman Quota and for which, priority



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Certificate is one of the requisite document. Hence, she approached the 2nd respondent for issuance of the said Certificate. After several struggles, she came to know from the 2nd respondent that her application requesting for priority certificate was sent to the 1st respondent for clarification. While so, earlier, she filed a writ petition viz., W.P. No.23471 of 2024 and the same was disposed of on 12.08.2024 by issuing directions to the 2nd respondent to consider the representation of the petitioner, within a period of one week from that date. Pursuant to directions issued by this Court on 12.08.2024 in W.P. No.23471 of 2024, the 2nd respondent passed the Proceedings, dated 14.08.2024, whereby the petitioner's claim was rejected. The reason for rejection stated by the 2nd respondent, was that the Secondary School records pertaining to her husband reveals Karnataka State Board and as per the records, her husband's residential address during the time of his joining in Army service was at Karnataka. Aggrieved over the said rejection order (impugned order), dated 14.08.2024 passed by the 2nd respondent, this writ petition has been filed.

4. Learned counsel for the petitioner submitted that the petitioner's husband was the resident of Tamil Nadu, since, his permanent address was



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at Elangalopatti Village, Palacode Taluk, Dharmapuri District. Without considering the said address proof, which the petitioner's husband possessed and without conducting any investigation, the 2nd respondent passed the impugned order, dated 14.08.2024, which is bad in law and the same is liable to be quashed. Therefore, he prays for quashment of the impugned proceedings, dated 14.08.2024 passed by the 2nd respondent as well as for allowing of this writ petition.

5. Denying the submissions made by the learned counsel for the petitioner, Mr.L.S.M. Hasan Fizal, learned Additional Government Pleader submitted his arguments based on the counter affidavit. Particularly, he drawn the attention of this Court to Paragraph Nos.3,4,6 to 8 of the counter affidavit, he vehemently argued that as per the School records as well as his service particulars, it reveals that the petitioner's husband was a native of Karnataka. Further he submitted that the residential address given by the petitioner's husband at the time of joining in Army was at Karnataka. Further, it is evident from the Death Intimation Signal, dated 08.11.2022 issued by the Army unit, that the permanent address of petitioner's husband was at Bengaluru, Karnataka State. He strongly argued that the overall



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proof of the petitioner's husband reveals that the deceased soldier belonged to Karnataka State and he was non-native of Tamil Nadu and the petitioner's daughter cannot claim Tamil Nadu State Quota. However, the request of the petitioner for eligibility Certificate /Priority Certificate for availing concession in MBBS under Central Quota was already issued to her daughter on 05.07.2024. In the light of the above, he submitted that the petitioner's case does not hold any merit to avail MBBS Seat for her daughter under the Tamil Nadu State and entertaining this petition would lead to several litigations. Therefore, no interference is warranted with the well considered order passed by the 2nd respondent.

6. Heard the learned counsel on both sides and perused the entire records placed before this Court.

7. Admittedly, the petitioner's daughter applied for MBBS seat in Ex.Serviceman Quota as well as submitted application before the 2nd respondent for issuance of Priority Certificate. It is not in dispute that the petitioner's husband was an Ex.Serviceman. Now the issue is whether the deceased soldier (petitioner's husband) was a native of Karnataka or Tamil Nadu.



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8. It is clear from the records that at the time of joining in Army service, the address details furnished by the petitioner's husband was at Bengaluru, Karnataka State. Further it is the contention of the respondents that the deceased Solider was a native of Karnataka, which they concluded from the records that the deceased soldier did his schooling in the syllabus of Karnataka State Board as well as from the Death Intimation Signal report, dated 08.11.2022 issued by the Army unit, where the permanent address of the petitioner's husband was at Bengaluru, Karnataka State.

9. On a careful perusal of further records viz., Aadhar card, Voter ID card, Family card pertaining to the petitioner's husband, Service Particulars of the deceased solider as well as from the Community Certificate issued to him and Certificate issued by the Revenue Inspector, Palacode, it reveals that the petitioner's husband was a resident of Elangalapatti Village, Palacode Taluk, Dharmapuri District, Tamil Nadu. More so, the Identity card (Widow of Ex-Servicemen) issued to the petitioner by the Army and the Aadhar card of the petitioner are also having the address proof of Elangalapatti Village, Dharmapuri District. In a common thinking, it can be seen that the work place of a Soldier and their native place, where their



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family members are residing will be different. They will be posted from time to time, from place to place, within the Borders of our Nation. If the aforesaid personnel are posted in one place, they have to furnish a residence address, which must be within the parameters prescribed i.e., local area, which is termed as temporary address for approaching them at any time. Their service is not like a common man and the same is generally honoured as 'Service before self'. Our soldiers willpower, disciplined lifestyle and unparallel patriotism is commendable. All the above aspects have to be kept in mind before issuing any certificate in respect of Soldiers by the authorities concerned.

10. In the instant case, from the aforesaid address proof, which the petitioner's husband possessed discloses that he was a resident of Tamil Nadu and non-native of Karnataka. Hence, the rejection order, which is impugned herein, dated 14.08.2022 passed by the 2nd respondent is unsustainable and bad in law.

11. In terms of the above, the impugned order, dated 14.08.2022 passed by the 2nd respondent suffers from illegality and the same is liable to be quashed. Accordingly, the the impugned order, dated 14.08.2022 passed



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by the 2nd respondent is quashed and the writ petition stands allowed with the aforesaid reasonings. No costs.

12. Further, the 2nd respondent is directed to issue Dependant Certificate / Priority Certificate to the petitioner's daughter, within a period of two weeks from the date of receipt of a copy of this order, so as to enable her to proceed further.

30.09.2024

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
vsi2

To
1. The Director,
Directorate of Ex-Servicemen's Welfare,
Office of the Directorate of Ex-Servicemen's Welfare,
No.22, Raja Muthiah Salai,
Choolai,
Chennai – 600 003.

2. The Assistant Director,
The Ex-Servicemen's Welfare Office,
Office of the Directorate of
Ex-Servicemen's Welfare,
Dharmapuri – 636 705.



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M.DHANDAPANI, J.

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30.09.2024