IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

WA Nos.3132 and 3134 of 2021

WA Nos.3132 of 2021

1.The District Collector,
District Collector Office,
Erode District.

2.The Revenue Tahsildar,
Modakuruchi,
Erode District. ... Appellants

versus

1.Gomathi
2.Sangeetha ... Respondents

PRAYER: Writ Appeal filed against the order in WP No.3314 of 2021 dated 18.03.2021 of the learned Single Judge.

WA No. 3134 of 2021

1.The Additional Chief Secretary,
Revenue and Disaster Management Department,
Fort St.George, Chennai-600 009.

2.The District Collector,
District Collector Office,
Erode District.

2.The Tahsildar,
Modakuruchi,
Erode District. ... Appellants

versus

1.Mrs.Sangeetha
2.Mrs.V.Gomathi ... Respondents

PRAYER: Writ Appeal filed against the order in WP No.3669 of 2021 dated 18.03.2021 of the learned Single Judge.

For the Appellants :Mrs.V.Yamunadevi
Special Government Pleader

For the Respondents :Mr.Venkatesh Duraira
for Mr.Deepan Uday has informed in Court that change of vakalat given, memo not filed.
for R1 in WA No.3132 of 2021 and R2 in WA No.3134 of 2021
Mr.G.Krishnakumar (vakalat returned)
for R2 in WA No.3132 of 2021
and R1 in WA No.3134 of 2021

COMMON JUDGMENT

(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.)*

The Writ Appeals are filed against the orders in WP No.3314 and 3669 of 2021 dated 18.03.2021 of the learned Single Judge

2. Brief facts of the case:

2.1. One Arumugam was working as Village Assistant in the office of Arasalur Land Revenue Inspector at Arasalaur Village, Modakurichi Taluk, Erode District. While in service, he died in harness on 17.10.2019, leaving behind his wife and two daughters, while his son Karthik Kumar predeceased him on 05.03.2019.

2.2. The first respondent in WA No.3132 of 2021 is the daughter of the deceased Arumugam. After his demise, she submitted a representation dated 26.12.2019 before the first appellant seeking employment on compassionate grounds. Pending representation, she has filed writ petition in WP No.3314 of 2021, for a direction to the appellants to consider her representation for providing employment on compassionate grounds.

2.3. The first respondent in WA No.3134 of 2021, who is the daughter in law of the deceased Armugam has also submitted a representation dated 25.11.2020 to the third appellant seeking employment on compassionate grounds on account of the demise of her father in law while in service. Pending representation, she also filed a writ petition in WP No.3669 of 2021 for a direction to the appellant department to consider her representation for providing employment on compassionate grounds. The writ court, by a common order dated 18.03.2021 had disposed of both the writ petitions with the following observations:

> *" 7. This court, after going through the affidavit, is of the view that both the petitioners, who are ladies and are more concerned to purchase peace in the family and also about the education of the children, have arrived at a reasonable settlement and Gomathi has agreed to part with 30 % of the Gross salary every month to Sangeetha and apart from that, she has also agreed to pay a sum of Rs.20,000/- for the education of the minor daughter Kayalvizhi of Sangeetha on or before 31st March of every year till she attains majority.*
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> *8. Taking note of the undertaking, these writ petitions are disposed of and the respondent Government is directed to provide compassionate appointment to Gomathi/petitioner in WP No.3314 of 2021. The connected employer/Department*

which is going to disburse the salary to Gomathi, can straight away deduct 30 % of the gross income payable to Gomathi and credit it in the account of Sangeetha directly through NEFT or RTGS. This Court makes it very clear if it is a taxable income, the 30% will fetch proportionate tax deduction, when the amount is credited to the account of Sangeetha.

9.Since Gomathi has been nominated by the wife of the deceased Armugam and in terms of the undertaking, the respondent without standing on technicalities, more so, when there is a specific order by this Court shall provide compassionate appointment to Gomathi, preferably within a period of three months from the date of receipt of a copy of this order."

2.4. Challenging the said common order, the appellant Department has filed the present intra court appeals.

3. Learned Special Government Pleader appearing for the appellant Department has submitted that the appellant Department aggrieved by a direction made in paragraph No.8 of the order passed by the Writ Court, namely, to deduct 30 % of the gross income payable to Gomathi and credit the same in the account of Sangeetha through NEFT or RTGS.

There is no such Rule or Provision under the Act for deduction of portion of the gross amount from the employee concerned. According to the appellant Department, when there is no such provision under the Rules, it is not feasible for the authority to deduct such amount, which alone led the appellant Department to prefer the present intra court appeals.

4. Learned Special Government Pleader further submits that as far as considering the appointment to Gomathi on compassionate grounds, the appellant department may not have any serious objection for providing such employment, subject to her being otherwise eligible as per the Rules.

5. Learned counsel appearing for Sangeetha would submit that as there was compromise entered into between Sangeetha and Gomathi, as per which, they had agreed for deduction of 30 % amount from the gross salary of Gomathi and credited the same to the account of Sangeeta and therefore, no prejudice will be caused to the Department if such amount is deducted from gross salary of Gomathi.

6. Heard the parties and perused the materials available on record.

7. As regards the compromise entered into between the parties for deduction of 30 % amount from the gross salary of Gomathi and credited the same to the account of Sangeeta, this Court is of the view that the said compromise will not bind the Department, as the Department has to follow and act only on the basis of the Rules prescribed. According to Department, there is no provision or Rules or Government Orders for such deduction of the amount from the Gomathi's salary account and to be credited to the account of Sangeetha. Hence, we are accepting the said contention of the learned Special Government Pleader.

8. In such circumstances, we have no hesitation to set aside paragraph No.8 of the order of the Writ Court dated 18.03.2021. We make it clear that the appellant Department shall consider the claim of the respondent/Gomathi for providing employment under compassionate scheme as per the Government Orders. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this judgment.

9. With the above directions, the writ appeal stands disposed of. There shall be no order as to costs. Consequently, CMP Nos.19907 of 2022 and 19903 of 2012 are closed.

10. We make it clear, based on the said compromise entered into between the parties, it is for the respondent/Sangeetha to work out her remedy in the manner known to law.

[D.K.K., J.]   [K.B., J.]
25.04.2024

Index : Yes/No
Neutral Citation : Yes/No
mrn

D.KRISHNAKUMAR, J.
and
K.KUMARESH BABU, J.

(mrn)

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