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W.A.No.3067 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR. JUSTICE P.B.BALAJI

W.A.No.3067 of 2024
and C.M.P.No.23158 of 2024

The District Collector (PD) Section,
Krishnagiri District,
Krishnagiri.

... Appellant

Vs.

R. Suma

... Respondent

PRAYER: The Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order dated 08.04.2024 made in W.P.No.870 of 2022.

For Appellant : Mrs.V.Yamunadevi
Special Government Pleader

ORDER

(Order of the Court was made by **D.KRISHNA KUMAR, J.**)

This Intra Court Appeal has been filed by the government/ District Collector, Krishnagiri as against the order passed by the learned Single



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Judge in W.P.No.870 of 2022, dated 08.04.2024, in and by which, the appellant herein was directed to consider the case of the respondent herein and grant her compassionate appointment in any suitable post, within a period of eight weeks from the date of receipt of a copy of the order.

2. The respondent's husband G.Ravikumar was working as Panchayat Secretary at Nanthimangalam, Hossur Panchayat Union from the year 2002 and thereafter, he died on 04.03.2015, leaving behind the respondent and her children as his legal heirs. The Government of Tamil Nadu had issued G.O.Ms.No.102 Rural Development and Panchayat Raj (E5) Department dated 13.07.2015, sanctioning appointment on compassionate ground to the legal heirs of Panchayat Secretary, who died in harness to the post of Night watchman, Office Assistant, Record Clerk and Junior Assistant depending upon the eligibility of the legal heirs and to be appointed according to the prescribed education qualification and subject to the condition laid down in recruitment rules.



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3. The respondent herein sought compassionate grounds on the basis of the said government order, through the Nanthimangalam Village Panchayat on 16.09.2015 and it was rejected by the appellant vide proceedings dated 29.09.2015.

4. Assailing the said proceedings dated 29.09.2015, the respondent herein filed W.P.No.4142 of 2016 and sought direction to the appellant herein to appoint the respondent on compassionate ground. In the said writ petition, the appellant has raised a specific ground that the G.O.Ms.No.102, dated 13.07.2015 will not apply to the case of the respondent, since the said order shall take effect only from the date of 13.07.2015, whereas, the husband of the respondent died on 04.03.2015, i.e., before passing the said government order. The said writ petition was allowed on 31.08.2017, directing the appellant to reconsider the application submitted by the respondent and to pass orders. Further, in the said order, it was observed by the learned Single Judge as "***the date of death of the deceased employee was not prescribed as a cut off date in the government order and therefore, the scheme of compassionate appointment cannot be restricted only to the deceased employees,***



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where the date of death falls after the issuance of the said G.O.Ms.No.102."

5. Pursuant to the said order passed in W.P.No.4142 of 2016, dated 31.08.2017, the appellant herein, has considered the application and passed the order once again rejecting the claim of the respondent, vide proceedings dated 4.10.2019, reiterating the same ground that the G.O.Ms.No.102, dated 13.07.2015 shall be applied only prospectively.

6. Challenging the said proceedings dated 04.10.2019, the respondent herein filed another writ petition in W.P.No.870/2022. After hearing both side and perusing the records and earlier order passed in W.P.No.4142/2016, learned single Judge has allowed the said writ petition, vide order dated 8.4.2024. It is useful to extract the relevant portion of the said order, which runs as follow:-

4. Thus, it can be seen that the rights of the parties have already been decided in W.P.No.4142/2016 and the impugned order has been passed absolutely without any application of mind and it is contemptuous of earlier orders of this Court. Further, it can be seen that the petitioner has duly provided the legal heir certificate and other requisite details for the entitlement to the compassionate appointment scheme. As a matter of fact, after considering the other aspects, by a



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communication dated 18.09.2015, the Block Development Officer has duly considered the fact that as on the date of death, the petitioner was under extreme penury standing with two years old male child and 5 months old female child and that the family is in poverty and forwarded the application for consideration. Therefore, the impugned order deserves to be set aside.

5. I further hold that the petitioner has satisfied all the requisites for granting of appointment under compassionate appointment. Even though on the basis of the earlier direction of this Court, the matter was remanded, the respondent has callously passed the order rejecting the case of the petitioner, which appears to be a very deserving case.

6. In view of the matter, the impugned order bearing ஐ.பி.24305/2019/K2 dated 04.10.2019 is quashed. The writ petition stands allowed. The respondent is directed to consider the case of the petitioner and grant her compassionate appointment in any suitable post, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

7. As against the above said order, the government has filed the present appeal taking the same stand that the G.O.Ms.No.102, dated 13.07.2015 shall take effect only from the date of 13.07.2015 and hence the rejection order passed by the appellant is justified in law.

8. The ground as taken by the appellant was already discussed in detail and decided on two occasions i.e. in W.P.No.4142 of 2016 dated 31.08.2017 and in W.P.No.870 of 2022, dated 04.01.2022. Further, we



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are also agreement with the earlier orders passed by the learned single judge in the said writ petitions. In view of the above, the contention of the appellant that the G.O.Ms.No.102, dated 13.07.2015 will take effect only prospectively cannot be accepted and the said issue need not be adjudicated once again in the present appeal.

9. For the foregoing reasons, the writ appeal is devoid of merits and is dismissed accordingly. There shall be no order as to costs. Connected CMP No.23158 of 2924 is closed.

(D.K.K, J.) (P.B.B., J.)

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