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W.P.No.31869 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.31869 of 2023

P.Saranya

.. Petitioner

Vs.

1. The Secretary to Government
Revenue Department, Fort St. George
Chennai – 9.

2. The District Collector
O/o. The District Collector
Coimbatore – 641 018.

3. The Tahsildar
Coimbatore North Taluk
Coimbatore.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus, calling for the records pertaining to the impugned rejection orders of the second respondents by vide his proceedings No.Na.Ka.9767/2017/A6 dated 20.03.2020 and Na.Ka.4729/2021/A6 dated 07.06.2021 quash these same and consequently direct the respondents 1 and 2 to appoint the petitioner in any suitable post on the ground of compassionate ground based on her educational qualification.



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For the Petitioner : Ms.Selvirejesh

For the Respondents : Mr.V.Velu
Additional Government Pleader

ORDER

The present writ petition is filed challenging the order dated 20.03.2020, whereby, the petitioner's prayer for grant of compassionate appointment was rejected.

2. The short facts relevant to the disposal of the writ petition are:

(i) The petitioner's father, who was working as an Office Assistant [for brevity, "OA"] died in harness while in service on 12.12.2001. An application was made, requesting compassionate appointment for his elder daughter Tmt.C.P.Sinduja, however, no orders were passed and that application was pending.

(ii) While the said application was pending, Tmt.C.P.Sinduja got married in the year 2008. Therefore, an application was made



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on 16.09.2009 to provide compassionate appointment to the younger daughter Tmt.P.Saranya, i.e., the petitioner herein. After the said application was made, an order was passed by the second respondent on 11.09.2012. In the said order, the particulars as to who are the other legal heirs, whether they have no objection for grant of compassionate appointment to Tmt.C.P.Sinduja, who is already married and an affidavit from Tmt.C.P.Sinduja that she will help the family even after her marriage were sought.

(iii) The said order was put to challenge by the mother of the petitioner by way of filing W.P.No.7495 of 2013. It was the contention of the petitioner therein that even subsequent to the marriage of Tmt.C.P.Sinduja in the year 2008, fresh application for compassionate appointment was made, requesting appointment to the younger daughter Tmt.P.Saranya. Without considering the same, the respondents should not have called for no objection for providing compassionate appointment to the elder daughter. The Court considered the same and allowed the writ petition on the following lines:



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"8. Considering the same, this court is of the view that the impugned order is liable to be set-aside and accordingly, the same is set-aside. This writ petition stands allowed. The respondents are directed to consider the case of the petitioner's second daughter P.Saranya and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. The petitioner is directed to produce all the relevant documents, pertaining to the qualification, etc., of her second daughter P.Saranya, along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected MPs are closed."

(iv) Thereafter, once again, the respondents did not pass orders immediately, but only in the year 2020, passed the present impugned order, rejecting compassionate appointment on the ground that there is no provision for requesting alternate appointment for another legal heir. Aggrieved by the same, the present writ petition is filed.



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3. The writ petition is resisted by filing a counter affidavit. It is stated that compassionate appointment is only to alleviate the distress of the family in need and to maintain the family, but it can only be made if the norms laid down are fulfilled. The application was not made within the time limit of 23.02.2004 in respect of the alternate appointment.

4.1. Heard Ms.Selvirejesh, learned counsel for the petitioner.

4.2. Learned counsel for the petitioner, taking this Court through paragraph 4 of the earlier order in W.P.No.7495 of 2013, would submit that already when this Court has directed the respondents to consider the case of the petitioner for compassionate appointment, now, once again, the respondents cannot reject the prayer for compassionate appointment on the ground that alternate appointment is pleaded.



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4.3. She would further submit that if the compassionate appointment in respect of Tmt.C.P.Sinduja was rejected within a period of three years, fresh application could have also been made within a period of three years. Only because the application was kept pending and in view of the intervening factum of marriage of Tmt.C.P.Sinduja, fresh application was made for provision of compassionate appointment for Tmt.P.Saranya.

4.4. Learned counsel for the petitioner would also rely upon the Government Order in G.O.(Ms).No.18 dated 23.01.2020 to contend that the petitioner's application will come within the four corners of requisite for compassionate appointment.

4.5. She would also submit that the deceased employee was an OA and the entire family is under distress and no person in the family is in any proper gainful employment, more specifically, in any Government Service. In that view of the matter, the respondents cannot plead delay. When the petitioner satisfied all the criteria, the respondents ought to have granted compassionate appointment.



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5. *Per contra*, Mr.V.Velu, learned Additional Government Pleader appearing for the respondents relied upon paragraph 5 of the counter affidavit and submits that the employee died in the year 2001, but the compassionate appointment is being prayed in the year 2023. In view of the huge efflux of time and the fact that alternate employment is pleaded, the very application for compassionate appointment, which is with a view to provide immediate succour to the family, would render unsustainable.

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

7. Though the question as to whether after claiming compassionate appointment to one daughter, still an application can be made for compassionate appointment to another daughter has to be decided in the facts and circumstances of each case and cannot be rejected on that sole basis, still the following factors have to be taken into account by this Court while deciding this writ petition.



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8. The employee died on 12.12.2001. Though the first application was made on 23.09.2002, upto the year 2009, no steps were taken by the petitioner's family and only after the marriage of the said Tmt.C.P.Sinduja in the year 2008, fresh application is made after a lapse of almost 9 years on 16.09.2009. Subsequently, when the earlier orders were passed by this Court, this Court had not considered on merits and rendered findings that the petitioner is entitled to ask for compassionate appointment.

9. In that view of the matter and in view of the fact that 22 years have now passed from the date of the death of the employee and the very purpose of compassionate appointment is to provide immediate succour to the family which is under distress on account of the sudden death of the Government Servant, I am unable to come to the rescue of the petitioner. The present order of rejection was passed on 20.03.2020, however, the writ petition is filed in November, 2023.



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10. Thus, in view of the efflux of time, the contention of learned counsel for the petitioner does not deserve acceptance and finding no merits, the present writ petition stands dismissed. There shall be no order as to costs. Consequently, W.M.P.Nos.31466 and 31467 of 2023 are closed.

05.06.2024

Index : Yes/No

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D.BHARATHA CHAKRAVARTHY,J.

(drm)

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