



Writ Petition No.34734 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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**RESERVED ON
10.04.2024**

**PRONOUNCED ON
29.04.2024**

CORAM

**THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

Writ Petition No.34734 of 2019

Rangammal

... Petitioner

Vs

- 1.The Union of India – Rep by.
The Secretary to the Government of India,
Ministry of Defence Production,
South Block, DHQ (PO),
New Delhi – 110 011.
- 2.The D G O G,
Ordinance Factory Board,
10-A, S K Bose Road,
Kolkata – 700 001.
- 3.The General Manager,
Cordite Factory,
Aruvankadu – 643 202.
- 4.The Registrar,
Central Administrative Tribunal,
High Court Campus,



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Chennai – 600 104.

... Respondents

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PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pursuant to the impugned proceedings of the 4th respondent Tribunal's order dated 08.03.2019 in O.a.No.279 of 2019, after quashing the same, pray direct the 3rd respondent to consider her case of employment assistance on compassionate grounds and pass further orders.

For Petitioner : Mr.V.Parthiban
for M/s.Ayyar and Iyer

For Respondents : Mr.A.Kumaraguru for R1
SCGSC
: Not ready in notice - R2
: No appearance for R3
: R4 - Tribunal

ORDER

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)

This Writ Petition has been preferred as being aggrieved against the order of the Central Administrative Tribunal in upholding the order of the third respondent rejecting the request of the petitioner for consideration of her claim for appointment on Liberalised Active Retirement Scheme for Guaranteed Employment for Safety Staff Scheme (hereinafter referred to as “LARGESS Scheme”).



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2. Heard Mr.V.Parthiban, learned counsel for M/s.Ayyar and Iyer and Mr.A.Kumaraguru, learned Senior Central Government Standing Counsel appearing on behalf of the first respondent.

3. The case of the petitioner is that her husband was employed in Cordite Factory, Aruvankadu and that he became medically ill and had been making repeated representations from the year 2012 to discharge him from duty on medical grounds and grant compassionate appointment under LARGESS Scheme to his wife. However, his representation was considered only in the year 2016 and the Medical Board had also recommended him to be discharged from service, as he became medically unfit. However, even during the period of discharge, the petitioner's husband had requested the Department to grant appointment to his wife. The petitioner's husband died in the year 2018 and therefore, she had again approached the authorities for grant of appointment on compassionate grounds. The third respondent vide



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his proceedings dated 21.01.2019 had rejected the claim of the petitioner on the ground that at the time of discharge, her husband had been aged 56 years and the Scheme of LARGESS Scheme would apply only to cases where the employee had been discharged or he had been boarded out on medical grounds prior to age of 55 years.

4. The learned counsel would vehemently contend that right from the year 2012, the request had been made by the husband of the petitioner to board him out on medical ground but had been delayed by the respondents and he was referred to the Medical Board only in the year 2016 and was discharged from service in the year 2017. He would submit that had the request of the petitioner's husband had been considered at an earlier date, he would have been eligible, but the belated consideration is only with the malice to not to grant any compassionate appointment under the LARGESS Scheme to the petitioner. Hence, she had challenged the same before the Tribunal and the Tribunal without appreciating the facts had held that there was no delay in boarding out the petitioner's husband on medical grounds and therefore, had rejected the claim made by the petitioner. Being aggrieved



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against the same, she had approached this Court.

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5. Referring to the earlier representations, the learned counsel for the petitioner would submit that it was the delay on the part of the authorities in referring the petitioner's husband to Medical Board in spite of the medical records submitted by him and therefore the delay is apparent on the part of the Department in referring him, for which the petitioner should not be deprived of her Scheme which otherwise she would be eligible.

6. Countering his arguments, Mr.A.Kumaraguru, learned SCGSC appearing on behalf of the first respondent would submit that the authority had referred the claim of the petitioner's husband and he had been medically discharged on 01.08.2017. However, he had neither filed an appeal against the discharge nor had submitted any acceptance of the medical discharge. Only if an acceptance is submitted by the concerned employee, then his case could be considered. Further, he would submit that at the time of medically discharging the petitioner's husband, he was aged about 56 years and therefore, his claim for compassionate appointment under LARGEES



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Scheme cannot not be considered since, as per the Scheme, the employee should be medically discharged prior to attaining the age of 55 years and therefore, he would submit that there is no interference required to be made by this Court. He had also placed the original records before us and contended that on consideration of his request, the husband of the petitioner had been referred to the Medical Board and the Medical Board, on 07.01.2013 had opined that the petitioner's husband could be given desk work with very mild physical activity. Therefore, even in the year 2012, the husband of the petitioner was found not to be eligible to be medically boarded out and therefore, he would submit that the claim of the petitioner that her husband's claim has not been considered is without any basis.

7. We have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record before this Court.

8. It is an admitted case that the husband of the petitioner had been discharged on medical grounds in the year 2017. The claim of the petitioner



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is that the husband of the petitioner had made various requests on 07.08.2012, 13.02.2013, 10.09.2013 and 23.11.2016 to discharge him from service on medical grounds and also with the representation to grant employment to his wife/ petitioner on the LARGESS Scheme.

9. From the records produced by the respondents, it could be seen that the request of the petitioner of the year 2012 had been considered and he had also been referred to the Medical Board and the Medical Board had not recommended to medically board him out, but, on the other hand had advised to give the desk work to the petitioner's husband with very mild physical activity. The said recommendation had also been accepted by the authorities. From the file noting that has been made by the Admin, it could be seen that he had made an endorsement that in view of the Medical Board opinion, the case of the petitioner's husband may be dropped for medically boarding him out at present and he had also opined that he may be again sent for medical examination after 6 months. For better appreciation, the relevant noting is extracted hereunder:-

*No.03/LB.DVCM/CFA
Dt. 22-01-2013*



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Sub: IE – Medical Board out – Regarding

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As instructed by GM, the case of Shri K.Ramamurthy, CPW

'SS', CD-2797/111186 for Medical Board for offering their comments vide this office Memo of even No. dated 10.11.2012 and reminder was issued on 11.12.2012 and reminder was issued on 11.12.2012.

CMO I/c CFH vide Memo No.4/Estt dated 21.01.2013 has intimated that as per the medical report Shri K.Ramamurthy is advised desk work with very mild physical activity and with a communication to the patient by the medical board of Govt. Coimbatore Medical College Hospital.

In view of the above position, it is submitted for orders whether the case for Medical Board Out in respect of Shri K.Ramamurthy may be dropped.

Submitted please

WM/Admin

DVO/LB

Typed endorsement:- It may dropped at present and may be again sent after 6 months

10. The said note file do not contain the representation of the petitioner's husband dated 13.02.2013 and 10.09.2013. It is to be noted that the petitioner had produced representation dated 10.09.2013 and the same seems to have been sent to the respondent through a registered post. It is not known as to why the said representation does not form part of the file, but,



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however based on his further representations in the year 2016, the petitioner's husband has again been sent to the Medical Board and upon the recommendation of the Medical Board, he had been medically boarded out from service. By that time he was medically boarded out, the petitioner's husband attained the age of 56 years which is beyond the age, upon which a member of the family would not be eligible for grant of appointment under the LARGEES Scheme.

11. Even though the representation of the year 2013 had not been found in the file and even if it is assumed that they have not been received by the Department, from the noting made in the file by the Admin of the Department that the petitioner's husband should be referred to the Medical Board again after 6 months, from the file, we do not find any such efforts referring the husband of the petitioner for medical evaluation had been made by the Department. Only after a further representation in the year 2016, he had been referred to the Medical Board and the Medical Board had opined that he was medically board out.



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12. In such view of the matter, we are of the view that there was no reason assigned by the Department as to why the husband of the petitioner had not been referred to the Medical Board at the earliest, atleast six months from the noting. Had his case been referred as per the noting, he would have been much within the age for considering the appointment of the petitioner on compassionate grounds under the LARGESS Scheme. In such view of the matter, we are inclined to interfere with the order passed by the third respondent as well as the order of the Tribunal.

13. In fine, this Writ Petition is allowed by setting aside the order of the Tribunal, dated 08.03.2019 made in O.A.No.279 of 2019 and consequently, the order of the third respondent dated 21.09.2019 is also set aside and with a consequential direction to the third respondent to consider the case of the petitioner afresh on merits and in accordance with law and pass appropriate orders, within a period of eight (8) weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.



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(D.K.K.,J.) (K.B., J.)
29.04.2024

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Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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