



W.P.(MD)No.14020 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2024

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THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.14020 of 2024
and
W.M.P.(MD)No.12291 of 2024

V.Kayalvizhi

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of Municipal Administration
and Water Supply,
Secretariate, Chennai-600 009.

2.The Commissioner,
Department of Municipal Administration,
10th Floor, Municipal Administration Campus,
No.75, Santhom High Road,
Raja Annamalaipuram, Chennai-28.

3.The Commissioner,
Nagercoil Corporation,
Nagercoil, Kanyakumari.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned order in Na.Ka.No.H1/7497/2021 dated 09.11.2021 on the file of the third respondent and quash the same as illegal and consequently direct the respondents 1 to 3 to appoint the petitioner as Sanitary



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Worker or any other post based on her educational qualification on compassionate ground with consequential benefits with the third respondent corporation within the time stipulated by this Court.

For Petitioner : Mr.T.Thirumurugan
For R1 : Mr.J.Ashok
Additional Government Pleader
For R2 & R3 : Mr.F.Deepak

ORDER

This writ petition has been filed challenging to quash the order in Na.Ka.No.H1/7497/2021 dated 09.11.2021 on the file of the third respondent and consequently, to direct the respondents 1 to 3 to appoint the petitioner as Sanitary Worker or any other post based on her educational qualification on compassionate ground with consequential benefits with the third respondent corporation within the time stipulated by this Court.

2.Heard Mr.T.Thirumurugan, learned counsel for the petitioner and Mr.Ashok, learned Additional Government Pleader for the first respondent and Mr.F.Deepak, learned counsel for hte second and third respondents.

3.By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.



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4.The petitioner has sought compassionate appointment in the respondent Corporation consequent to the death of her mother B.Vengalam, who died in harness on 08.01.2019. However, the application was rejected on the ground that the petitioner was married at the time of the death of her mother and she was not dependent on the deceased employee. There is no denial of the fact that the deceased was working as a Sanitary Worker in the respondent Corporation.

5.The learned counsel for the petitioner submitted that the issue is no longer a *res integra* and is covered by the decision of this Court in **W.P.No. 3623 of 2021 dated 18.01.2024**. While dealing with the same issue, this Court has observed in paragraph Nos.13 to 21 held as follows:-

“13.Even though the married daughters have crossed the first level challenge of coming within the ambit of the compassionate scheme, the other challenges continue. She is expected to prove that she had been depending on the income of her mother. In our societal settings, a son who does not opt to constitute a nuclear family after his marriage live as a joint family with his father under the same roof and it is normalized. Hence it is easier for him to claim that he had been fully or partially dependent on his father income, irrespective of the fact of private employment. In such cases, the authorities concerned do not tend to confuse about the dependency aspect of the son. If married



daughters choose to live with their parents or at the parents' house, it is considered as abnormal and hence eyebrows raised. A sudden or unconscious distrust is formed, if a married daughter states that she was dependent on her mother either partially or fully.

14. In case, a married daughter lives at her husband's residence or constitute a separate household with her husband, it becomes a herculean task for her to establish that the daughter was dependent on her father either fully or partially, irrespective of her employment. A married daughter sometimes / many times depends on her father or mother even after her marriage for medical attention or continuing education or for any other purpose which she might or might not prefer to reveal. This is irrespective of the fact whether she is well treated or not at her matrimonial home.

15. Quite often such contributions made by the parents to the life of a married daughter living at her matrimonial home go unnoticed, unaccounted or even unrecognised. Revealing those contributions of parents is often considered as something below the dignity of the husband of a married daughter or the family of her in-laws. Such an opinion is not always or essentially the perspective of the members of the matrimonial home. Even the married daughter herself might think that to reveal her parents' financial contributions would affect the dignity or image of her husband or her in laws. It is obviously for these reasons, the married daughters cannot be insisted to produce records to show that she was fully or partially dependent on her mother's income even after her marriage. Such culturally complicated sides of an issue would demand an empathetic approach and not just a pedantic approach attached to routine office files and formalities.



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16. *An act of Compassion includes both the elements of sympathy and empathy. Sympathy is an immediate emotional response to a fact situation like some one's loss. It does not stay longer. But empathy demands the intellectual involvement of the respondents, which is called 'understanding'. Through empathy one tries to understand the situation by placing himself in the shoes of an affected person. Empathy prompts action and stays until the affected person recovers and gets back to normalcy. So the authorities concerned need to consider the requests for compassionate appointments with both sympathy and empathy. The matters of compassion not only requires an understanding by getting into the shoes of the applicant but also in the shoes of the deceased government servant, like how the deceased would have wished to settle his dependents in life, if he was alive. So providing compassionate appointment is more or like fulfilling an unwritten Will of the deceased government servant. Hence, in the matters of compassionate appointment granting the appointment can be the rule and denying it may be an exception.*

17. *Further, the aspect of economical dependency cannot always be measured on a scale of bare minimum standard. Because the so called bare minimum is again a complex issue. What is luxury for one person can be a bare minimum for another person. If one has to apply the bare minimum standard it should be in terms of how an employee was placed in society and what standard of life that employee had provided to his dependents with the salary he earned. So the employer cannot expect that the dependent applicant starve for food or live without a roof for getting a compassionate appointment.*

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18. *The relationship status of the petitioner with the deceased*



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employee was not denied by the respondent Corporation. The only reason given in the order is that she was married and hence not a dependent on the income of the mother. As stated already, this aspect of the matter cannot be handled in a pedantic manner.

19. During the course of arguments for the respondents it is submitted that the petitioner has got over qualification. But that is not the reason for rejecting the application. As these conditions can be relaxed in the matters of compassionate appointments, the respondents need not consider this aspect as a hurdle for giving an order for compassionate appointment. Therefore, I feel it is appropriate to direct the respondents to appoint the petitioner in any job suiting to the scheme.

20. In view of the reasons and observations above stated, this Writ Petition is allowed and the order of the second respondent dated 25.11.2019 in Ref.No.CO:HRD:2946:1650:CAR-2018 is quashed and the respondents are directed to reconsider the application of the petitioner afresh in the light of the above observations and issue an order of appointment suiting to the scheme for appointment on compassionate grounds within a period of six weeks from the date of receipt of a copy of this order. No costs.”

6. Since the petitioner herein is also similarly placed as that of the petitioner in the above writ petition, this petitioner is also entitled for the same relief.

7. Accordingly, following the earlier decision of this Court *supra* (**W.P.No.31049 of 2023 dated 25.06.2024**), this Writ Petition is allowed and



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the order of third respondent dated 09.11.2021 in Na.Ka.No.H1/7494/2021 is quashed and the respondents are directed to reconsider the application of the petitioner afresh in the light of the above observations and issue an order of appointment suiting to the scheme for appointment on compassionate grounds within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

01.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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To

- 1.The Secretary,
Department of Municipal Administration
and Water Supply,
Secretariate, Chennai-600 009.
- 2.The Commissioner,
Department of Municipal Administration,
10th Floor, Municipal Administration Campus,
No.75, Santhom High Road,
Raja Annamalaipuram,
Chennai-28.
- 3.The Commissioner,
Nagercoil Corporation,
Nagercoil,
Kanyakumari.



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R.N.MANJULA, J.

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