



W.P.(MD)No.15024 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.15024 of 2022

M.Kasthuri

... Petitioner

vs.

1.The Director,
Directorate of Town Panchayat,
Kuralagam Buildings,
Chennai – 600 108.

2.The Executive Officer,
Town Panchayat, Ilanji,
Ilanji,
Tenkasi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus to call for the records in Na.Ka.No.100/2020 dated 20.06.2022 passed by the second respondent and to quash the same and consequently to direct the respondents to provide suitable employment to the petitioner under compassionate grounds in the second respondent office.



W.P.(MD)No.15024 of 2022

For Petitioner :Mr.A.Thirumurthy
For Respondents :Mr.Veera Kathiravan,
Additional Advocate General, assisted by
Mr.M.Lingadurai,
Special Government Pleader

ORDER

The petitioner has filed this writ petition challenging the rejection order passed by the second respondent, dated 20.06.2022 and to direct the respondents to provide suitable employment to the petitioner under compassionate grounds in the second respondent office.

2. The petitioner's husband who was working as a Scavenger in the second respondent office died on 21.08.2017 while he was in service. Thereafter, the petitioner made an application seeking appointment on compassionate grounds. But, however, the application of the petitioner was rejected by the second respondent on 26.02.2022 stating that her husband's appointment itself was illegal in view of the fact that he secured employment by furnishing bogus certificates and departmental proceedings was also pending against him.



W.P.(MD)No.15024 of 2022

WEB COPY

3. In fact, earlier, the petitioner filed W.P(MD)No.95 of 2022 under which an order has been passed on 09.03.2022 and a direction was also given to consider the application of the petitioner, wherein it has been observed as under:

“4. The question arises as to whether an employee facing the disciplinary proceedings dies, the legal heirs are eligible for appointment on compassionate grounds. Unless the disciplinary proceedings reach finality or end with an order of punishment, no one can form an opinion that he is a punished employee. Furthermore, the allegation remains as an allegation and during the course of the proceedings, the employee died. Thus, mere pendency cannot be a bar for consideration of the application. However, the application is to be considered with reference to other eligibility criterias fixed under the scheme of compassionate appointment. The eligibility criterias, indigent circumstances, income ceiling are to be verified by the competent Authorities before taking a decision.

5. In this view of the matter, the respondents are directed to consider the application submitted by the writ petitioner for compassionate appointment, take a decision and pass appropriate orders as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of a copy of this order.”



W.P.(MD)No.15024 of 2022

WEB COPY

4. Therefore, it is seen that on the earlier occasion also this Court has dealt with the submissions of the respondents about the departmental proceedings pending against the husband of the petitioner on the allegation that he secured employment by furnishing bogus documents. In the said proceedings, this Court had observed that unless the disciplinary proceedings reached a finality or ended with an order of punishment, no one can form an opinion that he is a punished employee. Since the order passed in the said writ petition has not been challenged by the respondents by preferring any appeal, the respondents now cannot reject the application once again by citing the same reason that disciplinary proceedings was pending against the husband of the petitioner at the time of death.

5. Since the impugned order does not speak about any other ground except the ground that was already dealt by this Court in the earlier round of litigation, I feel that the impugned order passed by the second respondent dated 20.06.2022 and the consequential order passed



W.P.(MD)No.15024 of 2022

WEB COPY

by the first respondent, dated 19.08.2022 which has been furnished today across the table are liable to be set aside.

6. In the result, the impugned order passed by the second respondent, dated 20.06.2022 and the consequential order passed by the first respondent, dated 19.08.2022, are set aside and the matter is remitted back to the first respondent to consider the application of the petitioner on own merits and in accordance with law by considering all other aspects of the Scheme, within a period of six weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition stands disposed of. No costs.

06.06.2024

NCC: Yes/No
Index : Yes/No

PM



W.P.(MD)No.15024 of 2022

To
WEB COPY

- 1.The Director,
Directorate of Town Panchayat,
Kuralagam Buildings,
Chennai – 600 108.

- 2.The Executive Officer,
Town Panchayat, Ilanji,
Ilanji,
Tenkasi District.



WEB COPY



W.P.(MD)No.15024 of 2022

R.N.MANJULA, J.

PM

W.P.(MD)No.15024 of 2022

06.06.2024