



W.P.(MD).No.20258 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.20258 of 2024

Jasmin Prema

... Petitioner

Vs.

1. The Director of School Education,
College Road,
Chennai – 600 006.

2. The Joint Director of School Education,
DPI Compound,
Chennai – 600 006.

3. The Chief Educational Officer,
Sivagangai District,
Sivagangai.

4. The District Educational Officer,
Sivagangai District,
Sivagangai.

5. The Block Educational Officer,
Ilayankudi Union,
Sivagangai District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the third respondent in Na.Ka.No.575/A1/2023, dated 27.07.2024 and to quash the same and consequently direct the third respondent to provide employment on compassionate ground as per the petitioner's educational qualification within a stipulated time as that may be fixed by this Court.

For Petitioner : Mr.C.Rathna Vel Pandian

For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

The instant Writ Petition has been filed by a daughter of the deceased Government servant, challenging the order passed by the third respondent herein, wherein her request for compassionate appointment has been rejected.

2. The petitioner's mother was employed as a Headmistress in Nagamukunthangudi Panchayat Union Primary School, Ilayankudi Union, Sivagangai District, and she passed away on 08.02.2015. The petitioner's father had predeceased her mother on 26.12.1999 itself. The petitioner got married on 08.03.2009.



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3. After the death of her mother, the petitioner has given a representation on 27.07.2015, seeking appointment on compassionate grounds. The said request was rejected by the authorities on 22.08.2022, on the ground that the petitioner being a married daughter, she was not dependent upon the mother on the date of the death of her mother. This order was put to challenge in W.P(MD) No.8396 of 2023. This Court, by an order dated 10.06.2024, had allowed the writ petition and has directed the third respondent to pass appropriate orders on merits and in accordance with law.

4. Pursuant to the orders of this Court, the present impugned order has been passed on 27.07.2024, again rejecting the request of the petitioner, but on a different ground that the petitioner's family is not in indigent circumstances, so as to grant compassionate appointment. This order is put to challenge in the present writ petition.

5. A perusal of the impugned order reveals that the deceased Government Servant had two daughters. The elder one is employed in Chennai as a Secondary Grade Teacher in a Government Aided School and



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she is residing separately. The said elder sister is receiving a salary of Rs.30,000/- per month. The second legal heir namely, younger sister who is the petitioner herein, having a educational qualification MA., D.TED., is unemployed. Her husband is working in a private concern and earning a sum of Rs.72,000/- per annum. Under the impugned order, the salary of the elder sister and the husband of the writ petitioner have been aggregated and it has been arrived that the family is receiving an annual income of Rs.4,32,000/- which is over and above the annual income fixed under G.O(Ms) No.18, Labour and Employment Department, dated 23.01.2020. This order is put to challenge in the present writ petition.

6. According to the learned counsel appearing for the writ petitioner, even as per the impugned order, the petitioner's elder sister and the petitioner are residing separately. In view of G.O.(Ms) No.18, dated 23.01.2020, whenever a family member is residing separately and they are not taking care of the other dependent, the income of the employed person cannot be taken into account.



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7. A perusal of the Statutory Rules, namely, the Tamil Nadu Civil Services (Appointment on Compassionate Grounds) Rules, 2023, Clause 3 (3) (b) reveals that if a member of the family is in regular employment and is living separately without providing any monetary assistance to the family, the same shall not make the family ineligible. In the present case, admittedly, the elder sister is residing away from the family, even as per the impugned order. There is no statement in the impugned order to the effect that the petitioner is receiving financial benefits from her elder sister. It is not the stand of the Government in their counter also.

8. In such circumstances, this Court is of the considered opinion that the income of the elder sister cannot be taken into consideration for the purpose of considering the indigent nature of the family.

9. It is the contention of the learned Additional Government Pleader appearing for the respondents that the petitioner got married in the year 2009 and she was residing away from her mother till her death. Therefore, the petitioner cannot be considered to be depending upon the income of her mother. In such circumstances, he prayed for sustaining the impugned order.



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He further contended that the total income of the family that whether they are residing together or separately should be taken into account for arriving at the independent of the family.

10. A perusal of the application submitted by the petitioner seeking compassionate appointment on 27.07.2015 reveals that the petitioner was residing with her mother at Thayamangalam village where the petitioner's mother was working as a Secondary Grade Teacher in a Panchayat Union School. The petitioner's husband is admittedly employed at Tiruppur in a private company. Therefore, it is clear that the petitioner was depending upon her mother till she had passed away on 08.02.2015. In such circumstances, the objection raised by the State in the counter affidavit (though not raised in the impugned order) is not sustainable.

11. In view of the above said facts, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the third respondent. The third respondent is directed to pass orders on the basis of the seniority of the petitioner in the Register maintained by the third respondent herein, conferring compassionate appointment upon the writ petitioner.



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12. With the above said observations, this Writ Petition stands disposed

of. There shall be no order as to costs.

23.10.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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