

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2025

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CORAM:

**THE HON'BLE MR.JUSTICE M.S.RAMESH
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR**

W.P.No.33405 of 2022
and
W.M.P.No.32831 of 2022

1.The Regional Provident Fund Commissioner I,
Regional Office, Coimbatore.

2.The Regional Provident Fund Commissioner I,
Regional Office, Trichy.

3.The Competent Authority,
Ministry of Labour & Employment,
Head Office, Bhavishya Nidhi Bhawan,
14, Bhikaiji Cama Place, New Delhi – 110 066.

...Petitioners

Vs

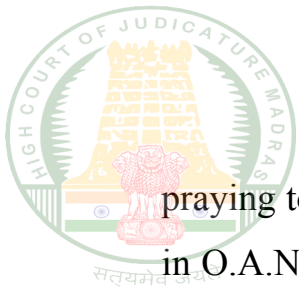
1.S.Veni

2.Union of India,
Rep. by its Secretary,
Ministry of Labour & Employment,
Shram Sakthi Bhawan, Rafi Marg,
New Delhi – 110 001.

3.The Registrar,
Central Administrative Tribunal,
High Court Campus, Chennai – 104.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India



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praying to issue a Writ of Certiorari calling for the records of the 3rd respondent in O.A.No.1170 of 2017 dated 19.04.2022 filed by the 1st respondent and quash the same.

For Petitioners : Mr.C.Kulanthaivel

For 1st Respondent : Mr.R.Singaravelan, Sr. Counsel
for Mr.R.Jayaprakash

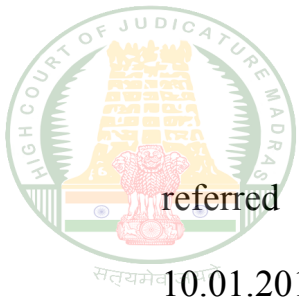
For 2nd Respondent : Mr.K.Ramanamoorthy, CGC

For 3rd Respondent: Tribunal

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

The 1st respondent's father late A.Selvaraj joined the services of the petitioners on 16.08.1983 as a Sweeper and while working as a Multi-Tasking Staff, he died on 30.06.2011, leaving behind his wife Smt.S.Pattammal and two married daughters. All the three legal heirs of the late employee are unemployed. The 1st respondent herein, who is the eldest daughter of the late employee, had sought for appointment on compassionate grounds before the petitioners herein, on the ground that she is supporting the dependant members of the family. After conducting an enquiry, her request was favourably recommended by the 2nd petitioner herein on 20.11.2014. However, the 1st petitioner had rejected her request on 16.06.2017, which became the subject matter of challenge before the Central Administrative Tribunal (hereinafter



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referred to as 'the Tribunal') in O.A.No.1170 of 2017. By an order dated 10.01.2018, the Tribunal had set aside the rejection order and directed the petitioners to consider the 1st respondent's case for grant of compassionate appointment. Aggrieved against the same, this Writ Petition has been filed.

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2. The learned counsel appearing for the petitioners submitted that under the scheme of compassionate appointment, a married daughter can be considered, if she is wholly dependant on the Government servant at the time of his/her death in harness or retirement on medical grounds and that she must support other dependant members of the family. According to the learned counsel, since the 1st respondent's husband was gainfully employed in the State Bank of India and earning Rs.34,000/- per month, she cannot be considered as wholly dependant on the Government servant and therefore is not eligible for compassionate appointment. He also placed reliance on the report of the Accounts Officer, which records that the family of the deceased employee owns a dwelling site measuring 600 sq. ft. with a small thatched roof at Trichy Town Senkulam Village, which has an open market value of Rs.2,00,000/- and the widow was paid the terminal benefits and therefore, the family cannot be termed to be under indigent circumstances.

3. The learned senior counsel appearing on behalf of the 1st respondent,



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on the contrary, submitted that the married daughter of a late Government servant is eligible for compassionate appointment and since the 1st respondent is wholly supporting the family of the deceased employee, the Tribunal had rightly set aside the rejection order, which cannot be found fault with.

4. It is not in dispute that a married daughter is eligible to be considered for compassionate appointment, subject to the conditions:-

- (i) that she was wholly dependant on the Government servant at the time of his/her death in harness or retirement on medical grounds;
- (ii) that she must support other dependant members of the family.

5. The learned counsel for the petitioners would submit that the 1st respondent does not fall under Condition No.(i), since her husband was gainfully employed and hence, she is ineligible for consideration. In other words, the submission appears to be that both the aforesaid two conditions are required to be complied in order to be considered for compassionate appointment.

6. The understanding of the petitioners on eligibility conditions of the scheme of compassionate appointment, as per the DoPT's guidelines/ instructions, that both the conditions requires to be met, appears to be

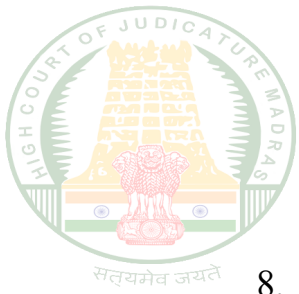


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paradoxical. We fail to appreciate as to how the legal heir of a deceased employee can simultaneously be wholly dependant on the Government servant at the time of his/her death, as per Condition No.(i) and at the same time support the other dependant members of the family, as per Condition No.(ii). When an unmarried daughter is wholly dependant on the Government servant during his/her death, she cannot be simultaneously supporting the other dependant members of the family. Likewise, if an unmarried daughter is supporting the other dependant members of the family, she could not have been wholly dependant on the Government servant during his lifetime. Thus, the claim of the petitioners that both these twin requirements have to be complied by an unmarried daughter, to become eligible for consideration of compassionate appointment, is paradoxical. On the other hand, the DoPT's guidelines/instructions requires to be read down, to mean, that either one of the conditions should be met for becoming eligible and not both. Reading otherwise would disqualify all unmarried daughters under the scheme to claim compassionate appointment for having failed to qualify both the conditions.

7. While interpreting a statute or by-law or any regulation, a literal or mechanical interpretation should not be adhered to, but rather the object, for which the portion of the regulation has been brought in, requires to be kept in mind and a broad interpretation to achieve the object should be made.



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8. In the case of ***R.L.Arora Vs. State of Uttar Pradesh and Others*** reported in ***AIR 1964 SC 1230***, the Hon'ble Supreme Court had touched upon this aspect, in the following manner:-

“9. Further, a literal interpretation is not always the only interpretation of a provision in a statute and the court has to look at the setting in which the words are used and the circumstances in which the law came to be passed to decide whether there is something implicit behind the words actually used which would control the literal meaning of the words used in a provision of the statute. It is permissible to control the wide language used in a statute if that is possible by the setting in which the words are used and the intention of the law-making body which may be apparent from the circumstances in which the particular provision came to be made. Therefore, a literal and mechanical interpretation is not the only interpretation which courts are bound to give to the words of a statute; and it may be possible to control the wide language in which a provision is made by taking into account what is implicit in it in view of the setting in which the provision appears and the circumstances in which it might have been enacted.”

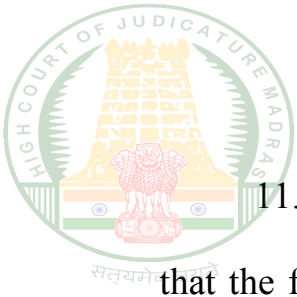
9. In the scheme of compassionate appointments, the married daughters of the deceased employee were originally disqualified in claiming such



appointment. Later, it was thought fit to include the married daughters also under the scheme of compassionate appointment, by bringing in two conditions.

We have already recorded in this order that it would be impossible for a married daughter to comply with both the conditions, since they are opposed to each other and impossible for compliance. In such circumstances, the word “or” requires to be read into these two conditions, failing which, the very object for a married daughter to claim the benefit of compassionate appointment, would be lost.

10. The 1st respondent's request for compassionate appointment has been rejected solely on the ground that she was not solely dependant on the Government servant, in view of the gainful employment of her husband. The other ground, on which the 1st respondent seeks for compassionate appointment that she is supporting the other dependant members of the family, has not been disputed by the petitioners. As a matter of fact, when the petitioners had deputed the Accounts Officer to investigate the claim made by the 1st respondent in her application, it was recorded in the report dated 20.11.2014 that the family of the deceased employee is in necessity of a permanent financial support and had recommended for the petitioner's appointment to the 1st respondent, asserting that it would be an apt support to the family.



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11. The learned counsel for the petitioners made a faint attempt to state that the family of the deceased employee lives in a house, which has an open market value of Rs.2,00,000/- and the widow was paid with the DCRG benefits. In other words, their submission appears to be that since the widow has received the DCRG benefits of the late employee and also owns a valuable property, the family, as such, cannot be termed to be in distressed circumstances and would be in a position to financial sustain itself.

12. The submissions appear to be preposterous for the simple reason that the 600 sq. ft. site, which they own, does not admittedly fetch any income to support the family. A mere title or ownership of a property by itself will not absolve a family from the financial constraint, unless such a property fetches regular or monthly income from the same. The very purpose for which a compassionate appointment is extended to the dependants of a bereaved family is only to enable them to meet out their daily and monthly expenditures, which they were meting out when the breadwinner was earning. In the absence of any regular income from a property which they own, it would be irrational to presume that such a family is possessed of means to manage their daily family expenses.

13. Likewise, if the submission of the petitioners that the DCRG benefits



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has upraised the financial status of the family, such a stand would disqualify all the legal heirs of a deceased employee to seek for compassionate appointment, since DCRG benefits are being paid to every family, which has lost the breadwinner and thereby, the very object of compassionate appointment would stand defeated.

14. In the present case, the widow of the late employee had specifically averred in her application that the DCRG benefits received by her have been utilised for settling the outstanding loans of her late husband. Such a statement has not been denied by the petitioners in their counter statement before the Tribunal or before this Court. In view of the same, we are inclined to accept the stand taken by the widow of the late employee about utilisation of DCRG benefits received by the late employee's family members.

15. The Central Administrative Tribunal had properly appreciated the facts and circumstances of the 1st respondent's claim before it and had set aside the rejection order. We do not find any reason to interfere with the order of the Tribunal.

16. In the result, the Writ Petition stands dismissed. Consequently, the



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petitioners herein shall forthwith pass appropriate orders, appointing the 1st

respondent to a suitable post under the scheme of compassionate appointment,

within a period of four weeks from the date of receipt of a copy of this order.

No costs. Connected miscellaneous petition is closed.

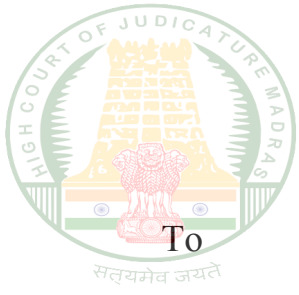
(M.S.R.,J.) (N.S.,J.)
04.03.2025

Index:Yes

Neutral Citation:Yes

Speaking order

hvk



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To

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Union of India,
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