



W.P.No. 24156 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:29.01.2025

Coram:

THE HONOURABLE Mrs.V.BHAVANI SUBBAROYAN

W.P.No. 24156 of 2023 &

W.M.P.No.23626 of 2023

D.Gomathi

...Petitioner

Vs.

1. The Commissioner of Police,
Commissioner Office,
Salem.

2. The Director General of Police,
Head of Police Department,
Chennai – 600 004

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 1st respondent vide proceedings Na.Ka.No.A4/4508644/2023 dated 21.04.2023 and to quash the same and consequently direct the respondents to provide an appropriate appointment to the petitioner on compassionate ground.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.Stalin Abhimanyu
Additional Government Pleader



W.P.No. 24156 of 2023

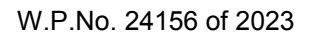
ORDER

WEB COPY

The present Writ Petition is filed for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 1st respondent vide proceedings Na.Ka.No.A4/4508644/2023 dated 21.04.2023 and to quash the same and consequently direct the respondents to provide an appropriate appointment to the petitioner on compassionate ground.

2. The brief facts of the case, as averred by the petitioner are as follows:-

The petitioner's father, viz., Dhanarajan died in harness on 14.08.2009 leaving behind the petitioner, petitioner's mother and petitioner's brother as his legal heirs. Subsequently, the petitioner's mother made an application on 07.08.2012 seeking an appointment to the petitioner, which is well within 3 years from the date of death of petitioner's father and the same has been kept pending more than a decade. On 27.11.2014, the petitioner had obtained legal heirship certificate declaring the petitioner, petitioner's mother and petitioner's brother as the legal heir of late Dhanarajan. On 04.06.2020, the 1st respondent vide proceedings dated 04.06.2020 had sent a recommendation to the 2nd respondent on verifying the petitioner's application and considering the indigent circumstances of petitioner's family for the appointment on appropriate cadre on



3. The learned counsel for the petitioner submits that the impugned order has been passed without following the procedures laid down in the Government Order i.e., G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020, wherein it specifically indicates that the family must be in indigent circumstance to be eligible for compassionate appointment, therefore, the said impugned order is liable to be quashed. The earlier application dated 07.08.2012 had been rejected on the ground that the petitioner was minor at the time of applying and therefore, the petitioner's mother made a fresh application for compassionate appointment dated 13.09.2021, that being so, the impugned order has been passed on the earlier application dated 7.08.2012 and not based on the



W.P.No. 24156 of 2023

subsequent application dated 13.09.2021.

WEB COPY

4. The learned counsel for the petitioner also submits that the Hon'ble Full Bench of this Court in W.P.(MD) No.7016 of 2011 dated 11.03.2020 held that persons seeking compassionate appointment must make the application without any delay and the Authority also to consider the same within a reasonable time. As the compassionate appointment is intended to meet the sudden crisis occurring in the family on account of death of the bread-winner, any such application made has to be considered within a reasonable period of time. In support of his contention, the learned counsel for the petitioner also relies on the judgment of the Three Judge Bench of the Hon'ble Supreme Court in **N.C.Santhosh Vs. State of Karnataka reported in 2020(7) SCC 617**, thereby pleaded to allow the present Petition.

5. On the contrary, a detailed counter affidavit and the typed set as has been filed by the respondents.

6. The learned Additional Government Pleader appearing for the respondents contend that though the application has been submitted within 3 years from the date of demise of the petitioner's father, the petitioner has not been completed 18 years on the date on which the application was presented or



W.P.No. 24156 of 2023

within completion of 3 years of the demise of her father. The learned counsel for the petitioner seeks in aid of G.O.No.18 dated 23.01.2020, wherein at page no.7, it is clearly indicated that minimum age is 18 years at the time of submitting the application for compassionate appointment and it is very clear from the records that the petitioner herein has not completed 18 years at the time of submitting the application for compassionate appointment. As such, the procedures contemplated in the above mentioned Government Order has been duly followed while rejecting the representation of the petitioner herein.

7. Further, the learned Additional Government Pleader appearing for the respondents projects a plea that apart from the application dated 13.09.2021, the petitioner's mother has also submitted an application dated 09.01.2023 and the order dated 14.02.2023 has been passed in connection with the application dated 09.01.2023 only. Also, in paragraph no.39 of the order in W.A.(MD) No.329 of 2015, it is clearly stated that continuation of penury or indigent circumstances of the family alone is not the factor to be considered by the department while examining the request of an applicant for appointment on compassionate grounds. The Government orders also indicates that scheme can be extended only to eligible member of the family and not to an ineligible person and the scheme has not been framed to provide employment assistance as and when



W.P.No. 24156 of 2023

son or daughter of the deceased employee attains majority under the schemes, on the other hand, scheme only enables those who are eligible and satisfy all the eligibility criteria including age within 3 years from the date of death, thereby submits that the impugned order is perfectly valid in the eye of law and pleaded to dismiss the present petition.

8. Heard the learned counsel on either side and perused the documents placed on record carefully. 9. Admittedly, the petitioner's father was appointed as Grade I Police constable on 17.11.1988 and he was upgraded as Grade I Police Constable on 01.10.1999, further he was promoted as Head Constable on 28.10.2004. While the petitioner's father was serving at Karumalai Kooda Police station, Salem District, he died due to illness on 14.08.2009, leaving behind his wife, namely, Latha, the petitioner (daughter) and a son as his legal heirs. Subsequent to the death of the petitioner's father, the petitioner's mother submitted a petition dated 07.08.2012 requesting compassionate appointment to the petitioner, who has studied upto 12th standard at that point of time and along with that, the petitioner has also submitted a petition on the same day itself requesting to provide her a job on the compassionate grounds.

10. It is to be noted that based on the petition dated 07.08.2012 submitted by the petitioner's mother, a memo dated 12.10.2012 has been sent to her



W.P.No. 24156 of 2023

indicating that she has obtained the forms on 17.08.2012 in connection with appointment on compassionate grounds and it was informed through the memo that as per the prevailing government orders, the application for appointment on compassionate grounds has to be submitted within 3 years from the date of death of a government servant and action cannot be taken against the applications if received belatedly. Subsequently, the forms were duly filled up by the petitioner herein and her family members and submitted to the office of the respondent.

11. It is pertinent to point out that the 2nd respondent herein has sent a memorandum dated 30.06.2020 to the office of the 1st respondent indicating that deceased wife has submitted a petition on 07.08.2012 to the Superintendent of Police, Salem District requesting to provide appointment on compassionate grounds to her daughter, namely, the petitioner, which is within three years of the death of the deceased, but the petitioner has not completed the age of 18 years on the date of submitting the application. The conditions governing the compassionate appointment are that a person, who is submitting the application for appointment on the ground of compassion is that they should have minimum educational qualification prescribed for the post applied for, including adequate knowledge in Tamil, on the date of application and the minimum age limit is 18 years. Also the G.O.(D) No.155 Labour and Employment (Q1) Department dated



W.P.No. 24156 of 2023

10.12.2014 states that from 04.05.2010, the legal heirs, who had completed 18 years only will be considered as eligible persons for compassionate appointments and in the present case, it is clear that the petitioner has not completed 18 years as on 07.08.2012, the date on which her mother has submitted a petition requesting appointment on compassionate ground.

12. Further, the G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020 specifically states that (ii) A family having an annual income of less than Rs.2 Lakhs only will be treated to be in indigent circumstances, in the present case, the family of the petitioner is in financial crisis, as there is no other income to the family except the pension of the deceased, Dhanrajan and that they have no properties for getting any income.

14. Considering the facts and circumstances of the case and taking note of the fact that the entire object of granting compassionate employment is to enable the family to overcome from the sudden financial crises due to the death of the sole bread-winner and the petitioner has rightly claimed compassionate appointment within 3 years from the death of deceased and though at that point of time, the petitioner has not completed 18 years of age, taking into consideration of the indigent circumstances, which the petitioner has undergone, this Court is of the view that the respondents shall consider the petitioner's claim



W.P.No. 24156 of 2023

as per G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020. Though G.O.Ms.No.33 dated 18.03.2023 indicates that appointment shall not be provided unless the applicant completes 18 years of age, taking note of the fact that the mother of the petitioner [deceased wife] has made an application at the earlier point of time, the same shall also be considered in the light of G.O.Ms.No.33 dated 08.03.2023.

In the result, the Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

29.01.2025

Index : Yes / No;
Internet : Yes / No
Speaking Order / Non Speaking Order
ssd

To

1. The Commissioner of Police,
Commissioner Office,
Salem.
2. The Director General of Police,
Head of Police Department,
Chennai – 600 004

=



WEB COPY



W.P.No. 24156 of 2023

V.BHAVANI SUBBAROYAN, J.

ssd

W.P.No.24156 of 2023

29.01.2025