
(2012) 09 MAD CK 0021

In the Madras High Court

Case No : Writ Petition (MD) No. 11275 of 2012

A. Jenny Marx

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 18-09-2012

Acts Referred:

Citation : (2013) 2 LLJ 243

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : A. Thirumurthy, for the Appellant; K. Mahesh Raja, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Vinod K. Sharma, J.—The petitioner prays for the issuance of a writ in the nature of mandamus directing the respondents to appoint the

petitioner on compassionate ground by quashing the order Na. Ka. No. 977/2012/Vu. Va. 12 dated 2.3.2012. The petitioner studied upto

B.Com and holds a Diploma in Teacher Education. The petitioner's name was registered with Employment Exchange, Theni in the year 1998.

2. The petitioner was given in adoption in the year 1998 to one Ms. Shanthi, who was working as Organizer in Nutrition Meal Centre at

Government Kallar School at Vellaiyammalpuram, Theni District.

3. The adoption took place on 6.10.1994 with the consent of the parents of the petitioner. After the death of the adoptive mother, the petitioner

inherited all the property of her mother by filing a Civil Suit in O.S. No. 269 of 1998. The petitioner has also received all the retirement benefits of

Smt. Shanthi, who died on 5.10.1998. After the death of Smt. Shanthi, the

petitioner applied for appointment on 25.3.2000. The appointment was objected to on the ground that the petitioner was not the legal heir of the deceased.

4. The petitioner filed S.O.P. No. 2 of 2001 for the grant of Succession Certificate. The Succession certificate was also granted in favour of the petitioner.

5. It is the case of the petitioner that she applied for compassionate appointment within three years and the District Collector, Theni forwarded the application of the petitioner on 29.3.2000 to the second respondent, but no reply was received.

6. Thereafter, there was a ban for appointment from 2001 to 2006. The petitioner, thereafter, filed representation in 2006 for appointment on compassionate ground.

7. The case of the petitioner is that after number of representations, the petitioner was asked to forward her application. Thereafter, vide impugned order, without giving opportunity of hearing to the petitioner, her name has been rejected on the ground that she is married.

8. The contention of the learned counsel for the petitioner is that the married daughter is also entitled to appointment on compassionate appointment, therefore, the impugned order cannot be sustained.

9. There can be no dispute with this contention of the learned counsel for the petitioner that married daughter can be considered for appointment.

10. But at the same time, in view of the admitted facts of this case, the petitioner is not entitled to the relief of compassionate appointment.

11. Admittedly, the petitioner is said to be adopted in the year 1998 and has inherited all the property along with pensionary benefits of the

deceased. The petitioner has survived without appointment for more than 14 years after the death of the deceased adoptive mother. It is now well

settled law that the appointment of compassionate ground is not an another mode of reservation. Even otherwise, the petitioner cannot claim

appointment after having inherited the property and pensionary benefits, which shows she is financially sound.

12. The learned counsel for the petitioner contends that Government Orders stipulate

(i) That applicant who makes an application within three years, is entitled to be

considered for appointment on compassionate ground and

(ii) Secondly, at the time of application, the girl should not married, and the subsequent marriage cannot be a bar to appointment.

13. This contention of the learned counsel for the petitioner is misconceived. The Honorable Supreme Court has laid down that such provisions

which amounts to creating another source of reservation for appointment of compassionate ground without reference to financial status would be

prima facie unconstitutional, as the object of the compassionate appointment is to entitle the family members of the deceased to overcome

immediate financial crisis which may arise.

14. After the expiry of more than 14 years, the petitioner cannot claim right to appointment on compassionate ground.

15. This Court in *Vinoth Kumar v. 1. The Secretary to Government, State of Tamil Nadu, Agriculture Department, Chennai* 9 and 2. The Director

of Agriculture, Chennai 5 W.P. Nos. 49346 of 2006, 1226 and 4620 of 2007 (O.A. Nos. 6535, 6377, 6222 of 2001) and W.P. Nos. 17520

and 26802 of 2011 has laid down that the compassionate appointment cannot be granted after a lapse of more than ten years of the death of the

mother or father. Consequently, this writ petition being devoid of any merit is ordered to be dismissed, but with no order as to cost. Consequently,

the connected Miscellaneous Petitions are also dismissed.