

(1998) 12 MAD CK 0139

In the Madras High Court

Case No : Writ Petition No. 17866 and W.M.P. No's. 27025 and 27026 of 1998

B. Chitra

APPELLANT

Vs

Director, Dept. of Teacher Education Research and Training
and Another

RESPONDENT

Date of Decision : 10-12-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1999 Mad 103

Hon'ble Judges : S.S. Subramani, J

Bench : Single Bench

Advocate : R. Chellamuthu, for the Appellant; Manikumar, Addl. Govt. Pleader,
for the Respondent

Final Decision : Dismissed

Judgement

S.S. Subramani, J.—Petitioner after successfully completing her Higher Secondary education in March 1998, applied for Diploma in Teacher Training Education Course for the year 1998-2000 offered by the District Institute of Education and Training, the second respondent herein, under Special quota. She sought admission under special quota forwards of Teacher/non-teacher, who died while in service.

2. Petitioner was selected for the course and asked to report before the second respondent on 25-9-1998 with necessary certificates. Petitioner also reported before the second respondent and she was also selected on the same day. She paid the fees also. Being a residential course, she also paid hostel fees. On 3-11-1998, petitioner was called by the second respondent and she was informed that she should not attend classes there-after and was asked to leave the hostel immediately.

3. On 6-11-1998, the reason why she was asked to leave the course was intimated to her. The reason stated was that there was a mistake on the part of

the respondents in admitting her. It is said that she was not eligible to be admitted on compassionate grounds since her mother already obtained the benefit by getting appointment on compassionate ground.

4. According to the petitioner, the impugned order cancelling her admission is violative to the Principles of Natural Justice, and no opportunity has been accorded to her to put forth her case. It is said that there is vast difference between compassionate appointment and admission to professional course on the ground that the parent died while in service. It is said that the admission to professional course can only be recorded as reward or recognition for the services rendered which comes at a later point of time. She prayed for quashing the impugned order and for a direction that she must be permitted to continue her course, till she completes her course.

5. In the counter affidavit, the impugned order has been justified. It is also stated that the petitioner sought admission under two heads; firstly as a daughter of a teaching/non-teaching staff of Adi Dravidar Welfare School and secondly as a daughter of a staff who died while in service. With regard to the claim of admission as a daughter of a teacher in Adi Dravidar Welfare School, it is contended that special category is intended only for children of teaching and non-teaching staff of Education Department and not to Adi Dravidar Welfare School. With regard to the claim for admission as daughter of teacher died while in service, it is said that is also in the nature of compassionate appointment. Petitioner had not disclosed at the time of her admission that her mother had already obtained employment on the very same ground and in fact she is employed in the School in which her father was employed. Being a professional course, the principle of compassionate appointment to service and compassionate admission are similar. Therefore, she is not eligible to be admitted. For these reasons, it prayed for dismissal of the writ petition.

6. I heard the counsel on both sides.

7. In this writ petition, petitioner only stated that she sought admission under special quota for Wards of Teaching/non-teaching staff, who died while in service and therefore, I only need to consider whether the denial of admission or cancellation of admission under that quota is justified.

8. The relevant clause of the admission notification read thus, (Vernacular matter is omitted. . . . Ed.)

9. With regard to Compassionate appointment, Honourable Supreme Court in the decision, reported in Haryana State Electricity Board and another Vs. Hakim Singh, , their Lordships held thus (at Page 3889 of AIR) :

".....The object of the provisions should not be forgotten that it is to give succour to the family to tide over the sudden financial crisis befallen the dependants on account of the untimely demise of its sole earning member."

Their Lordships further went on and said thus,

"This Court has considered the scope of the aforesaid circulars in Haryana SEB v. Naresh Tanwar (1996) 2 JT 542. "

In that case the widow of a deceased employee made an application almost twelve years after the death of her husband requesting for accommodating her son in the employment of the Board, but it was rejected by the Board. When she moved the High Court the Board was directed to appoint him on compassionate grounds. This Court upset the said directions of the High Court following two earlier decisions rendered by this Court, one in Umesh Kumar Nagpal Vs. State of Haryana and Others, the other in Jagdish Prasad Vs. State of Bihar and Another, . In the former, a Bench of two Judges has pointed out that the whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for the post held by the deceased. In the latter decision, which also was rendered by a Bench of two Judges, it was observed that "the very object of appointment of a dependant of the deceased employees who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family. "The learned Judge pointed out that if the claim of the dependant which was preferred long after the death of the deceased employee is to be countenanced it would amount to another mode of recruitment of the dependant of the deceased Government servant which cannot be encouraged, de hors the recruitment rules".

10. A similar decision was taken in Managing Director, MMTC Ltd., New Delhi v. Pramoda Dei alias Nayak, (1997) 11 SCC 390 In that case, their Lordships held thus,

".... As pointed out by this Court, the object of compassionate appointment is to enable the penurious family of the deceased employee to tide over the sudden financial crisis and not to provide employment arid that mere death of an employee does not entitle his family to compassionate appointment."

11. In a still recent decision of Honourable Supreme Court, reported in State of U.P. and Others Vs. Paras Nath, an appointment was sought for 17 years after the death of the father on the ground that at the time of his death son was only about two years old. The question was whether the son is entitled to get employment on compassionate grounds. In paragraphs 5 and 6 of the Judgment their Lordships held thus,

"5. The purpose of providing employment to a dependent of a Government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. To alleviate the distress of the family, such appointments are permissible on compassionate grounds provided there are Rules providing for such appointment. The purpose is to provide immediate financial assistance to the family of a deceased Government servant. None of these considerations can operate when the application is made after a long

period of time such as seventeen years in the present case.

6. We may, in this connection, refer to only one judgment of this Court in the case of Union of India (UOI) and Others Vs. Bhagwan Singh, . In this case, the application for appointment on similar compassionate grounds was made twenty years after the railway servant's death. This Court observed :

"The reason for making compassionate appointment, which is exceptional, is to provide immediate financial assistance to the family of a Government servant who dies in harness, when there is no other earning member in the family."

12. Even though all these cases referred to point out appointment to service, admission to professional courses is also to be dealt with in the same way. Seeking admission to professional course is to get employment immediately after the course is over. The Government may not be in a position to give appointment immediately to all claimants and for the said purpose it may also provide admission to certain professional courses so that the dependant can earn his bread by taking the profession immediately after the course is over. It is a concession. The intention is that immediately after the course is over, the family could be helped to a certain extent. The, preference is given only for the reason that immediately after the course is completed the family could be rehabilitated. Appointment on compassionate grounds and admission to a professional course are both intended only, as rehabilitation process of the bread winner's family. It is clear from the same that the difficulties of the family could be tided over at the earliest possible time in view of the untimely death of the sole bread winner.

13. One of the main criteria for compassionate appointment is the poor financial background of the bread winner's family. If the sole bread winner is dead, the entire family is seriously affected. In this case, petitioner's mother got employment on compassionate ground and she got employment in the very same school. It is admitted that she is employed as Laboratory Assistant on the death of her husband.

14. Being a concession, the eligibility of the petitioner to get admission will have to be proved by her satisfactorily. In this case, her mother's appointment came to light only after her selection. It was for that reason her admission was cancelled.

15. Learned counsel for the petitioner submitted that in the notification for admission, none of these conditions are stated. It only says that the quota is earmarked for the children of the teachers died while in service. I do not think that the interpretation will have to be accepted as argued by the counsel. What is the purpose of giving such concession will have to be considered. If that be so, the cancellation of admission can only be held as proper.

16. I have also taken a similar view in my order dated 20-11-1998 in W.P. No. 13866 of 1998.

17. Counsel for the petitioner also argued that she has been admitted and she

has also joined the course and if it is to be cancelled, it must be with notice to her. As against the said contention in the counter affidavit, it is stated that before cancelling the admission of petitioner, the fact was informed to the petitioner and her mother about the ineligibility and only after they are put in notice of the ineligibility, the order itself was passed. When the candidate gets admitted into the course alleging that she is having certain qualifications and when it is found that she has not fulfilled the qualification, there is no question of any prior notice in such cases. In this case, respondent had stated that if only petitioner's mother's appointment was known to them earlier, she would not have been admitted. I find justification in the said contention.

18. In the result. I do not find any merit in the writ petition and hence the same is dismissed. No costs. Consequently, W.M.P. Nos. 27025 and 27026 of 1998 are also dismissed.