
(2014) 04 MAD CK 0062
In the Madras High Court
Case No : W.P. No. 14977 of 2012

E. Suganthi Shamala

APPELLANT

Vs

Chief Engineer General Highways Department and Others

RESPONDENT

Date of Decision : 10-04-2014

Acts Referred:

Citation : (2014) 04 MAD CK 0062

Hon'ble Judges : D. Hari Paranthaman, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D. Hariparanthaman, J.—Heard both sides.

2.This writ petition is filed by the petitioner to quash the order dated 08.10.2009 passed by the first respondent refusing to give compassionate appointment to her and removing her name from the wait list.

3. The petitioner's father was working as Road Inspector under the fifth respondent. He died on 12.05.2000, while he was in service. Immediately after the death of her father, the mother of the petitioner applied for compassionate appointment on 07.08.2000. The name of the petitioner's mother was included in the wait list at Sl. No. 561 for providing compassionate appointment and the same was informed by the first respondent in the letter dated 17.01.2002. At the time of the death of the father of the petitioner, the petitioner was aged 13 years. Even when she reached 18 years, no employment was given to her mother. In the meantime, her mother also became sick. In those circumstances, an application was made by the petitioner to give her compassionate appointment. The same was also recommended by the concerned authorities and she was included in the wait list and her wait list number was 695 for providing compassionate appointment and the same was informed by the first respondent by an order dated 28.03.2006. Thereafter, the first respondent, suddenly after three years, without giving employment to the petitioner, passed the impugned

order dated 08.10.2009 refusing to provide compassionate appointment and also cancelling the placement of the petitioner in the wait list for compassionate appointment.

4. The very purpose of giving compassionate appointment is to relieve the family from starvation and other difficulties that could be faced by its members due to the sudden death of the breadwinner, who is a Government servant.

5. The impugned order relies on a judgment of the Honourable Supreme Court in SLP (Civil) No. 12876 of 2000 dated 28.08.2000 that compassionate appointment could not be given to a person, who was minor at the time of death of the Government servant. The said judgment of the Supreme Court is produced before this Court for perusal.

6. In my view, the said judgment cannot be applied to the facts and circumstances of this case. In that case, application was not made within a period of three years from the date of death of a Government servant. Herein, though the petitioner's mother applied immediately, she was not given compassionate appointment for more than 5 years. In the meantime, she became sick. In these circumstances, the petitioner applied for compassionate appointment and her application was also accepted and she was put in wait list like her mother. Hence, the judgment of the Supreme Court can have no application to the present case on hand. In fact, the counter affidavit filed by the third respondent supports the case of the petitioner, except stating in last para that the application was made by the petitioner only after three years. The date of application of the petitioner should be taken as the date of application made by her mother. If it is so, it cannot be said that the application was made after three years.

7. The learned counsel for the petitioner has relied on the following judgments:

(a) Judgment of the Hon'ble Supreme Court in Syed Khadim Hussain V. State of Bihar [2006 (9) SCC 195]

(b) Division Bench judgment of this Court in P. Satharaman Vs. The Secretary to Government, The Chief Engineer and The Superintending Engineer, .

8. In my view, the judgments relied on by the learned counsel for the petitioner directly applies to the case on hand.

(a) Syed Khadim Hussain V. State of Bihar [2006 (9) SCC 195]

(i) The father of the appellant therein was working in the Public Works Department of the Government of Bihar and he died on 12.09.1991. At that time, the appellant was a minor. However, the appellant's mother gave application for compassionate appointment on 02.04.1993. That application was made within three years. However, the same was rejected on the ground that it was not in the prescribed format.

(ii) While so, the appellant therein gave an application on 07.09.1995. The same

was rejected on 12.10.2001 on the ground that as on 07.09.1995, the appellant was only aged 13 years, three months and 23 days. In those circumstances, the Apex Court has intervened.

(iii) In my view, this case is squarely applicable to the facts of case on hand. The mother of the appellant therein approached immediately within three years. It was rejected on the ground that it was not in the prescribed format. Thereafter, the appellant approached the authorities. His request was rejected on the ground that he was a minor. In such circumstances, the Apex Court directed the Bihar Government to consider the claim and to provide compassionate appointment within a period of three months.

(b) P. Sathiarman Vs. The Secretary to Government, The Chief Engineer and The Superintending Engineer,

(i) In this case, the appellant's father was working in the Tamil Nadu Electricity Board and he died on 11.07.1998. At that time, the appellant was a minor.

(ii) The appellant's mother made an application on 09.08.2001 providing for compassionate appointment and since there was no response, she made another representation on 27.05.2003. The same was rejected on the ground that she did not make application within three years from the date of death of her husband.

(iii) When she made another representation on 03.08.2005, the same was rejected on 18.08.2005 on the ground that she did not possess requisite qualification. In those circumstances, the Division Bench of this Court issued direction to the respondents therein to provide compassionate appointment to the appellant.

(iv) The aforesaid narration of facts makes it clear that the appellant therein and also his mother diligently persuaded the matter. This judgment also squarely covers this case.

9. In these circumstances, I have no hesitation to quash the impugned order. Accordingly, the impugned order is quashed and the writ petition is allowed and a direction is issued to the first respondent to provide compassionate appointment to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. No costs.