

(2008) 06 MAD CK 0008

In the Madras High Court

Case No : Writ Petition No. 13709 of 2008 In Miscellaneous Petition No. 1 of 2008

G. Girija

APPELLANT

Vs

Assistant Director (Panchayat), Kancheepuram and others

RESPONDENT

Date of Decision : 18-06-2008

Acts Referred:

Citation : (2009) 120 FLR 221

Hon'ble Judges : N.P. Vasanthakumar, J

Bench : Single Bench

Advocate : S. Arunachalam, for the Appellant; D. Srinivasan, A.G.P., for the Respondent

Final Decision : Dismissed

Judgement

N.P. Vasanthakumar, J.—By consent of parties, the main writ petition itself is taken for final hearing.

The prayer in the writ petition is to quash letter/proceedings of the first respondent made Na.Ka. No. 95 of 2007/A-1, dated 7 December 2007,

declining the grant of compassionate appointment to the petitioner on the ground that the petitioner got married and therefore she is not entitled to

compassionate appointment.

2. The case of the petitioner is that the petitioner's father Udayakumar was employed in the office of the first respondent as junior assistant. He

died on 26 February 1991 in harness, leaving the petitioner's mother, the petitioner and others. The petitioner's family having been in indigent

circumstances and after passing plus two examination by the petitioner, she applied for Compassionate appointment by application, dated 2 June

1997, to the second respondent. When the application was submitted, the

petitioner was unmarried.

3. The petitioner being the eldest daughter, is eligible to be appointed on compassionate ground as no one in her family was in employment. The

petitioner furnished required certificates to prove the indigent status of family. However, no order was passed on the application of the petitioner,

dated 2 June 1997. Again the petitioner submitted another application on 12 April 2001, for which the second respondent sent a reply stating that

the third respondent has submitted the proposal for appointment of the petitioner on compassionate ground and forwarded to the Government.

However, the same was not considered due to the ban order issued by the Government and only after lifting the ban the petitioner's claim for

compassionate appointment can be considered.

4. The ban order issued by the Government was lifted on 21 February 2006. Thereafter, the petitioner was required to submit certain particulars

and the same was also furnished by the petitioner. In the meantime the petitioner got married on 10 September 2006. The said fact was also duly

intimated to the first respondent through the letter of the petitioner, dated 6 November 2007. Now the petitioner's claim is rejected by the

impugned order by stating that since the petitioner is now married, she is not entitled to get appointment on compassionate ground.

5. The learned Counsel for the petitioner as well as the learned Counsel for the respondents submits that a similar issue was considered by the

Division Bench of this Court in W.P. No. 18916 and the Division Bench in Paras. 8 and 9, has held as follows:

8. There is no dispute that the Government has made provision for appointment on compassionate ground, obviously with a view to enable the

family members of the deceased employee to tide over immediately the financial stringency on account of death of the breadwinner in the family. It

is of course true that as per GO. Ms. No. 73, Employment Services, dated 26 October 1983, only an unmarried daughter is eligible and not a

married daughter. However, there is no requirement in the GO. that at the time of actual employment such unmarried daughter should continue to

be unmarried nor there is any requirement that after an unmarried daughter gets employment on the compassionate ground, she cannot marry in

future. There is no dispute that the present Petitioner was eligible to make the

application and she made an application as an unmarried daughter.

The appropriate authority took about 3 to 4 years to finalise the matter. Merely because the unmarried daughter got married in the meantime and

that too with a specific understanding that her husband would have no objection to her maintaining the members of the family of her father, it cannot

be said that such person had got employment by suppressing any material fact.

9. We have also perused the format in which such applications are required to be made. There is no column in such format to indicate that an

applicant at the time of her employment is required to disclose whether she is married in the meantime is any requirement that an unmarried

daughter after getting such appointment on compassionate ground is required to remain as a spinster for ever. If an unmarried daughter after getting

employment on compassionate ground has liberty to marry, we fail to understand as to why an unmarried daughter, who makes such application

and is otherwise eligible, keeping in view the financial aspect would be deprived of the right of getting employment more particularly when there is

no objection raised by any other eligible person: As a matter of fact, in the present case, the mother and the petitioner's brother, who has become

major in the meantime, have filed affidavits stating that they have no objection to the petitioner continuing in service.

9. For the aforesaid reasons, we are unable to sustain the order passed by the Tribunal and such order is hereby quashed. The petitioner shall be

deemed to be continuing in service from the date of order of removal. However, no amount would be paid (sic) for the period from 25 June 2004

till the date of rejoining pursuant to the present order. The petitioner shall be permitted to rejoin in service within a period of 30 days from the date

of receipt of a copy of this order. The entire period shall be notionally counted for the purpose of seniority, increments, pension, and other service

benefits.

6. In view of the Division Bench judgment, which has already settled the controversy in this matter, the impugned order challenged in this writ

petition is set aside and the second respondent is directed to issue appointment order to the petitioner on compassionate ground without reference

to the marriage of the petitioner in terms of the order passed by the Division Bench of this Court..Necessary order is directed to be passed by the

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

7. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous petition is closed.