

(2013) 08 MAD CK 0175

In the Madras High Court

Case No : Writ Petition No. 22171 of 2013

Jayalakshmi

APPELLANT

Vs

Tamil Nadu Generation and Distribution Corporation Ltd., The
Chief Engineer (Personnel), The Superintending Engineer and
The Assistant Executive Engineer

RESPONDENT

Date of Decision : 13-08-2013

Acts Referred:

Citation : (2013) 4 LLJ 116

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : N. Ravichandran, for the Appellant; Fakkir Mohideen, TNEB, for the Respondent

Judgement

D. Hariparanthaman, J.—With the consent of both parties, the Writ Petition itself is taken up for final disposal, as the matter is squarely covered by a decision of this Court. Heard both sides.

2. The petitioner's father was employed as Line Inspector in the Tamil Nadu Electricity Board and he died on 13.7.2011 while he was in service. He left behind his wife viz., Sakunthala and two daughters, viz., Jeyasudha and Jeyanthi as his legal heirs. He has no son. The petitioner was married even before the death of her father.

3. The petitioner applied for compassionate appointment due to the death of her father. But, her request was rejected by the impugned order dated 27.12.2012 by the third respondent. The only reason given in the impugned order is that the petitioner Jayalakshmi was married at the time of death of his father and therefore she was not eligible to grant compassionate appointment.

4. In similar circumstances, the matter was considered by me in W.P. (MD) No. 5183 of 2013 (M. Sudha vs. the District Collector, Thanjavur District), and I set aside the similar impugned order and issued direction to the respondent therein

to consider the case of the petitioner therein for compassionate appointment, if the petitioner therein was otherwise eligible for appointment. In fact, in the said judgment, I followed the earlier judgment of mine in W.P. (MD) No. 8686 of 2011. The relevant paragraph 5 of the aforesaid judgment is extracted hereunder:

5. As rightly contended by the learned counsel for the petitioner, the matter is squarely covered by a decision dated 2.7.2012 rendered by me in W.P. (MD) No. 8686 of 2011. Paragraph 9 of the judgment is extracted hereunder:

9. As stated above, if marriage is not a bar in the case of son, the same yardstick shall be applied in the case of a daughter also. At this juncture, it is relevant to take note of the statute, namely the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 which places equal duty on both the son and daughter to take care of the parents at the old age. Therefore, in the case of death of the parents, there cannot be any unequal treatment among the children based on sex. Further, as rightly contended by the learned counsel for the petitioner, the judgment of this Court reported in G. Girija Vs. Assistant Director (Panchayat), Kancheepuram and others, Kancheepuram, Kancheepuram District) applies to the facts of this case. In the said case, the Government servant died on 26.2.1991. The daughter got married on 10.9.2006. She gave an application for compassionate appointment on 2.6.1997. This court quashed the order declining to give compassionate appointment holding that there cannot be any discrimination between sons and daughters in the case of giving compassionate appointment. The said judgment squarely applies to the facts of this case. Therefore, I have no hesitation to quash the impugned order. Accordingly, the impugned order is quashed and a direction is issued to the respondents to consider the claim of the petitioner for compassionate appointment without reference to the marriage of the petitioner and to pass appropriate orders in the light of this judgment within a period of eight weeks from the date of receipt of a copy of this order.

In these circumstances, the impugned order is quashed and the matter is remanded back to the third respondent to consider the claim of the petitioner for compassionate appointment on merits and in accordance with law and if the married daughter is otherwise eligible, provide her compassionate appointment, within a period of eight weeks from the date of receipt of a copy of this order. The Writ Petition is disposed of. No costs.