

(2011) 08 MAD CK 0095

In the Madras High Court

Case No : Writ Petition No. 18473 of 2011 and M.P. No. 1 of 2011

M. Rajalakshmi

APPELLANT

Vs

The District Elementary Educational Officer

RESPONDENT

Date of Decision : 08-08-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 16(2), 16(3), 16(5)

Citation : (2011) 08 MAD CK 0095

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : P.I. Thirumoorthy, for the Appellant; I. Arokiasamy, GA (Edn.), for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The Petitioner has come forward to challenge a reply, dated 29.10.2010 given by the Respondent District Elementary

Educational Officer, Vellore in response to the Petitioner's request for grant of employment on compassionate grounds due to the death of her

sister M.Kalarani, who was working as a Teacher in Veerichettipalli Panchayat Union Primary School. The Petitioner was informed that as per the

existing rule, there is No. provision for grant of employment assistance for the sister of the deceased Government employee.

2. The contention of the Petitioner was that both her parents died at her young age. She had two sisters Kalarani and Rajeswari. The eldest sister

Rajeswari was unemployed and that the immediate younger sister Kalarani got appointment as a Secondary Grade Teacher only at the age of 44

years and she was maintaining the family. But however on 31.12.2008, she died leaving her and her elder sister without any support. She got legal

her certificate from the Tahsildar, Katpadi. She had also applied for succession certificate before the Sub Judge, Gudiyatham in O.P. No. 1 of

2009 declaring her as a legal heir of deceased Kalarani. Thereafter, she sent a representation to the Chief Minister's Grievance Cell on 23.9.2010

claiming employment on compassionate grounds. That letter was forwarded to the Respondent. In respect to the said direction, the Respondent

had informed the Petitioner negating her request for employment on compassionate grounds.

3. The contention raised by the Petitioner was that the Respondent had failed to consider the economic condition of the Petitioner and the indigent

circumstance of the family. While the Government is having many schemes for needy people, the present reply destroys the good intention of the

Government.

4. It must be noted that the scheme for compassionate appointment is to provide an immediate succor to the family of the deceased Government

servant. It has been held to be an exception to Articles 14 and 16 of the Constitution. The scheme providing for compassionate appointment has to

be strictly interpreted. The scheme only provides for such employment assistance to the widow and the children of the family and not to the

extended family of the Government servant. If any such scheme is conceived to cover all the legal heirs, then it would amount to employment based

on ground of descent and it may be hit by Article 16(2) of the Constitution. That is why the Respondent had correctly held that the scheme as it

exists today does not provide for employment assistance to the sister of deceased Government servant.

5. The scheme providing for wider range of employment assistance came to be considered by the Supreme Court and it was read down to include

only the son, daughter or widow of the family vide its judgment in Auditor General of India and others Vs. G. Ananta Rajeswara Rao, and in

paragraph 5, it was observed as follows:

5. A reading of these various clauses in the Memorandum discloses that the appointment on compassionate grounds would not only be to a son,

daughter or widow but also to a near relative which was vague or undefined. A person who dies in harness and whose members of the family need

immediate relief of providing appointment to relieve economic distress from the

loss of the bread-winner of the family need compassionate treatment. But, all possible eventualities have been enumerated to become a rule to avoid regular recruitment. It would appear that these enumerated eventualities would be breeding ground for misuse of appointments on compassionate grounds. Articles 16(3) to 16(5) provided exceptions. Further exception must be on constitutionally valid and permissible grounds. Therefore, the High Court is right in holding that the appointment on grounds of descent clearly violates Article 16(2) of the Constitution. But, however it is made clear that if the appointments are confined to the son/daughter or widow of the deceased government employee who died in harness and who needs immediate appointment on grounds of immediate need of assistance in the event of there being No. other earning member in the family to supplement the loss of income from the bread-winner to relieve the economic distress of the members of the family, it is unexceptionable. But in other cases it cannot be a rule to take advantage of the Memorandum to appoint the persons to these posts on the ground of compassion. Accordingly, we allow the appeal in part and hold that the appointment in para 1 of the Memorandum is upheld and that appointment on compassionate ground to a son, daughter or widow to assist the family to relieve economic distress by sudden demise in harness of government employee is valid. It is not on the ground of descent simpliciter, but exceptional circumstance for the ground mentioned. It should be circumscribed with suitable modification by an appropriate amendment to the Memorandum limiting to relieve the members of the deceased employee who died in harness from economic distress. In other respects Article 16(2) is clearly attracted.

6. In view of the above, the writ petition will stand dismissed. However, there will be No. order as to costs. Consequently connected miscellaneous petition stands closed.