

(2015) 03 MAD CK 0068

In the Madras High Court

Case No : Writ Petition (MD) No. 4169 of 2015 and M.P. (MD) No. 2 of 2015

M. Sivarani and Others

APPELLANT

Vs

The Chief Engineer (Employment), Tamil Nadu Electricity
Generation and Generation Corporation and Others

RESPONDENT

Date of Decision : 24-03-2015

Acts Referred:

Citation : (2015) 03 MAD CK 0068

Hon'ble Judges : K. Ravichandra Babu, J.

Bench : Single Bench

Advocate : V. Nagendran, for the Appellant; S. Dayalan, SC, Advocates for the Respondent

Judgement

K. Ravichandra Babu, J.—Mr.S.Dayalan, learned Standing Counsel, takes notice for the respondents.

2. Since the issue involved in this case is squarely covered by earlier decisions of this Court in favour of the petitioners, the main Writ Petition itself is taken up for final disposal, as there is no necessity to file any counter-affidavit in this matter.

3. The second petitioner is the daughter of the deceased employee of the respondents Corporation. The first petitioner made the application seeking for compassionate appointment to the second petitioner, within one year from the date of death of the employee. However, the application was rejected by passing the impugned order only on the ground that the second petitioner is a married daughter of the deceased employee and, therefore, her request for compassionate appointment cannot be considered.

4. This Court, in very many cases, has considered the very same issue and found that marriage of the daughter cannot be a disqualification for considering her claim for compassionate appointment. One of such recent decision was made by this Court in W.P. No.20271 of 2014 dated 21.08.2014, wherein it has been observed, at paragraph Nos. 6 and 7, as follows:

"6. I am unable to accept the said contention of the learned Special Government Pleader for the respondents. The learned single Judge of this Court in W.P.No. 22171 of 2013 followed his earlier judgment rendered in W.P.(MD)No. 8686 of 2011, wherein the learned Judge observed as follows:-

"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, 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." 7. Therefore, as per the above judgment, there cannot be any discrimination between the son and daughter and the daughter though married is also entitled to the claim of appointment on compassionate ground, provided she satisfies the other requirements as stated in G.O.Ms.No. 165, dated 30.8.2010 and the claim of the married daughter cannot be rejected on the ground that she got married at the time of submitting the application for appointment on compassionate ground. In this case, the deceased Government Servant left behind his widow and the daughter and the daughter has also stated in the affidavit that she is living with her mother and taking care of the mother and the mother has also filed an affidavit to the effect that she has no objection for giving compassionate appointment to her poor daughter."

5. Therefore, this Court is of the view that the impugned order rejecting the request of the petitioners cannot be sustained and accordingly, the same has to be set aside. Consequently, the Writ Petition is allowed and the impugned order dated 01.08.2014 is set aside and the matter is remitted back to the respondents for considering the claim of the second petitioner seeking for compassionate appointment and pass appropriate orders, if the second petitioner is otherwise qualified to the post to which she is seeking for compassionate appointment. Such exercise shall be done by the respondents, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the

connected miscellaneous petition is closed.