
(2015) 02 MAD CK 0297

In the Madras High Court

Case No : Writ Petition (MD) No. 1185 of 2012 and M.P. (MD) No. 1 of 2012

S. Gomathi

APPELLANT

Vs

The District Collector and Others

RESPONDENT

Date of Decision : 23-02-2015

Acts Referred:

Citation : (2015) 02 MAD CK 0297

Hon'ble Judges : V.M. Velumani, J.

Bench : Single Bench

Advocate : Ananth C. Rajesh, for the Appellant; M. Murugan, Government Advocate, Advocates for the Respondent

Final Decision : Disposed off

Judgement

V.M. Velumani, J.—This Writ Petition has been filed by the petitioner to quash the impugned order of the first respondent in Na.Ka.A4.35525/2009, dated 27.05.2010, and direct the respondents to provide appointment on compassionate ground to her in any one of the Office under the control of the first respondent on account of death of her husband on 21.09.2005 while in service.

2. According to the petitioner, her husband died on 21.09.2005 while he was in service. The petitioner has made an application on 27.10.2005 for appointment on compassionate ground and to sanction and disburse the death-cum-monetary benefits to her. The respondents did not pass any order on the representation of the petitioner. Therefore, the petitioner has filed W.P.(MD)No.3853 of 2010 seeking a direction to the respondents to provide appointment on compassionate ground to her in any one of the Office under the control of the first respondent and she has also filed W.P.(MD) No. 3863 of 2010, seeking a direction to the respondents therein to sanction and disburse the death-cum- monetary benefits to her. This Court, by common order dated 24.03.2010, directed the respondents to pass appropriate orders regarding the claim of the petitioner for appointment on compassionate ground due to the death of her husband and also for payment

of monetary and pensionary benefits due, after the death of her husband within a period of four weeks from the date of the order.

3. The respondents did not disburse death-cum-monetary benefits to her. Therefore, the petitioner has filed Cont. P.(MD) No. 698 of 2010 and the same is pending.

4. With regard to compassionate appointment, the first respondent has passed the impugned order, dated 27.05.2010, rejecting the request of the petitioner stating that the petitioner's husband was appointed on compassionate ground on the death of her father-in-law. The said order was not communicated to her. A copy of the letter was handed over to her Counsel for the notice, dated 22.12.2010. Challenging the same, the petitioner has filed the present writ petition.

5. Though the writ petition is of the year 2012, the respondents have not filed any counter affidavit even after taking adjournment for filing counter. Today, when the matter is taken up for hearing, the learned counsel for the petitioner produced a letter of the first respondent in Na.Ka.No. A4/35525/2009, dated 20.01.2015. The first respondent directed the Revenue Divisional Officer to enquire into the matter and obtain report from the Tahsildar with regard to genuineness of the documents produced by the petitioner and submit the report within one week for giving appointment to the petitioner.

6. Heard the learned counsel appearing for the parties.

7. I have perused the materials on record and considered the arguments of the learned counsel appearing for the parties.

8. From the impugned order dated 27.05.2010, it is seen that the request of the petitioner was rejected based on the instructions contained in Letter No. 34107/N1/77-1, dated 04.05.1978. With great difficulty, the petitioner obtained copy of the said letter. A reading of the said Letter clearly reveals that the instructions are not applicable to the facts of the petitioner's case. The petitioner is not seeking appointment for the death of her father-in-law, who was died while in service.

9. A reading of the Government Letter, dated 04.05.1978, shows that only one appointment can be given on compassionate ground for the death of an employee while in service. The first respondent rejected the request of the petitioner on the ground that the petitioner's husband was given appointment on compassionate ground for the death of her father-in-law viz., S.S. Shanmugam. The contention of the first respondent that already one appointment on compassionate ground had been given to the family members of the deceased, is untenable and unsustainable.

10. The petitioner is not seeking appointment for the death of her father-in-law, S.S. Shanmugam. She is seeking appointment on compassionate ground for the death of her husband viz., K.S. Sivasubramanian, who died while in service. No

appointment was given to any one of the family members of K.S. Sivasubramanian.

11. For the above reasons, I hold that the impugned order is liable to be set aside and accordingly, set aside. The first respondent is directed to consider the representation of the petitioner, dated 27.05.2010, taking into consideration the proceedings of the first respondent in Na.Ka.A4.35525/2009, dated 20.01.2015 and pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. The Writ Petition is accordingly disposed of. No costs. Consequently, M.P.(MD) No. 1 of 2012 is closed.