



W.P.(MD).No.6022 of 2021

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 30.06.2022**

**CORAM**

**THE HONOURABLE MR. JUSTICE M.S.RAMESH**

**W.P.(MD).No.6022 of 2021**

Kalaimathi

... Petitioner

**Vs.**

1.The District Collector,  
Trichy District,  
Trichy.

2.The Thasildar,  
Thottiyam Taluk Office,  
Thottiyam,  
Trichy District.

...Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the first respondent vide his proceedings in Na.Ka.A4-18806-2018 dated 19.02.2020 and quash the same as illegal and consequently direct the respondents to appoint the petitioner in the proportionate post of his qualification within stipulated time by this Court.

For Petitioner : Mr.Aswin Rajasimman  
for Mr.K.Arunraj

For Respondents : Mr.M.Siddharthan,  
Additional Government Pleader



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## **ORDER**

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The petitioner herein seeks for compassionate appointment owing to the death of her father, Late. Panneerselvam, who was an employee of Kattuputhur East Revenue Village. During the lifetime of his first wife, Late. Panneerselvam had married the petitioner's mother. Her request for appointment on compassionate grounds came to be rejected on the ground that the petitioner, being the daughter of the second wife, is not entitled for compassionate appointment.

2. The entitlement of an unmarried daughter of the second wife is no more *res integra*, since the issue was already dealt with by this Court. In one such decision in the case of ***K.Perumal Vs. The Director, Department of Public Health and Preventive Medicine, Chennai and others*** in ***W.P.(MD). No.10405 of 2016, dated 29.06.2020***, I had placed reliance on the decisions of the Hon'ble Supreme Court as well as the Hon'ble Division Bench of this Court and had held that such a daughter would be entitled for compassionate appointment. The relevant portion of the order reads as follows:

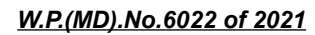
*“5. The only ground on which the impugned rejection order came to be passed is by placing reliance on the letter (G.O.Ms.No. 34, Labour and Employment (Q1) Department, dated 16.04.2002). Though the counter affidavit refers to this*



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letter dated 16.04.2002 as a Government Order, effectively, it is only a clarification letter to the various Government Orders referred therein with regard to the interpretation with regard to the term “Children”. As per the clarification, the Secretary to the Government, Labour and Employment (Q1) Department as stated that the children born out of void marriages would be entitled for monetary benefit of the deceased employee and not for compassionate appointment, since such compassionate appointment cannot be equated to the status of property of the deceased and that the word “Son or Unmarried daughters” used in the scheme for compassionate appointment, has to be construed to only mean the son or daughter born through a valid wedlock. It is in view of this clarification, the impugned rejection order came to be passed, stating that the petitioner being the son of the second wife will not fall in the purview of the word “Son or Unmarried daughters” for the purpose of appointment on compassionate grounds. The reasoning in the impugned order is per-se illegal in view of the various decisions of the Hon’ble Supreme Court as well as this Court.

**6. In Chand Patel V. Bismillah Begum and another reported in 2008 (2) CTC 308 SC**, it has been held that the second marriage though is said to be irregular, the children born out of such marriage will be entitled to claim the benefits of their parents. Likewise, a Hon'ble Division Bench of this Court in the case of **H.Anwar Basha v. Registrar General, Madras High Court and another reported in 2008 (5) MLJ 795**, had dealt with the issue



“30. The object of the compassionate appointment to a son or daughter or near relative, who would take care of the family of the Government Servant, who dies in harness, leaving his family in indigent circumstances is to mitigate the sufferings of the bereaved family. In this connection, it has to be noted whether the person appointed on compassionate grounds is continuing to support his family or not. As seen from Exs.P-18 and P-19, the delinquent was shown as one of the family members of Shaik Hyder. If that is taken into account, the delinquent would definitely come under the dependants. Therefore, the object under which the compassionate appointment has been provided to the bereaved family of Shaik Hyder has been rightly met. As such, the legitimacy or illegitimacy cannot be a stumbling block for the



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*petitioner to get employment. Hence, the impugned order, in our considered view, suffers from illegality and perversity and the same is liable to be set aside.”*

*7. Following the decision of the Hon'ble Division Bench in H.Anwar Basha's case (supra), this Court, in a Writ Petition in W.P.No.33464 of 2009 dated 23.09.2009 in the case of **E.Baikaraj V. DGP and two others** held that the children born through illegitimate marriages would be entitled for compassionate appointment. Thus, the term “Son or Unmarried daughters” referred to in the various Government Orders facilitating appointment on compassionate ground would include illegitimate children also, apart from their entitlement for monetary benefits arising out of the death of a Government employee. The clarification of the Secretary to the Government, Labour and Employment (Q1) Department, dated 16.04.2002 is clearly opposed to this proposition and the first respondent herein is not justified in placing reliance on such a clarification while passing the impugned order. Furthermore, the interpretation of the term “Son or Unmarried daughters” being contrary to the aforementioned judicial pronouncements, cannot give a contrary view to exclude children born out of illegitimacy. While that being so, the impugned order cannot be sustained and thereby, the petitioner would be entitled for compassionate appointment.”*



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3. The aforesaid extract is self-explanatory. As such, the reasoning assigned by the respondents that the petitioner, being the daughter of the second wife, is not entitled for compassionate appointment, cannot be sustained.

4. Accordingly, the impugned order, dated 19.02.2020, on the file of the first respondent is quashed. Consequently, there shall be a direction to the first respondent herein to pass appropriate orders, granting appointment to the petitioner on compassionate grounds, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

5. This Writ Petition stands allowed accordingly. There shall be no order as to costs.

**30.06.2022**

Index : Yes / No  
Internet : Yes/ No  
Lm

To

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Trichy.

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M.S.RAMESH, J.

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