

Jithamol Vs. State of Kerala

Jithamol Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/731320

Court : Kerala

Decided On : Aug-29-2002

Reported in : 2003(2)KLT14

Judge : K. Balakrishnan Nair, J.

Appeal No. : O.P. No. 24452 of 2002

Appellant : Jithamol

Respondent : State of Kerala

Advocate for Def. : K.J. Josemon, Government Pleader

Advocate for Pet/Ap. : V. Premchand and; V. Tekchand, Advs.

Judgement :

K. Balakrishnan Nair, J.

1. The petitioner is the wife of one Mr. Nikesh who died on 4.7.2001 while working as a Police Constable. She applied for appointment on compassionate grounds under the dying-in-harness scheme. Her application has been returned to her by Ext.P4 order dated 8.7.2002, on the ground that she did not forward the consent letter of other dependents for giving employment to her. She has been directed to get such a consent letter and forward the same along with the application.

2. The appointment under the dying-in-harness scheme is governed by G.O.(P) No. 12/99/P&ARD; dated 24.5.1999. Clause 14(c) of the said G.O. reads as follows:-

'In the case of dependents other than widow/widower the consent of the widow/widower shall invariably be obtained.'

It means if the widow or widower is the applicant, there is no question of any consent of others. Therefore, the learned counsel for the petitioner submits that Ext.P4 is plainly ultra vires and unauthorised.

3. I heard the learned Government Pleader also. The contention of the learned counsel for the petitioner has to be accepted in the light of the provisions contained in the abovesaid Government Order. Accordingly I quash Ext. P4 and direct respondents 1 and 2 to pass final orders on the claim of the petitioner for appointment under the dying-in-harness scheme, without insisting for the consent letter of other legal heirs. The petitioner shall forward the application to the 3rd respondent along with the copy of this judgment. In that event the 3rd respondent shall forward the same to the 2nd respondent within two weeks thereafter. The competent authority shall pass appropriate orders on the claim of the petitioner as directed above within two months from, the date of receipt of the application through proper channel.

The Original Petition is disposed of as above.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com