

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23-04-2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A. No.635 of 2015
and
M.P. No.1 of 2015

1. THE ASSISTANT PRIMARY EDUCATION OFFICER
ASSISTANT PRIMARY EDUCATION OFFICE
ANTHIYUR 638 501
 2. THE DISTRICT PRIMARY EDUCATION OFFICER
DISTRICT EDUCATION OFFICE
ERODE 638 501
 3. THE DIRECTOR OF SCHOOL EDUCATION
COLLEGE ROAD CHENNAI 6
- Vs
1. MRS.KAYALVIZHI
D/O.V.INDARJITH W/O.R. SIVASAMY
51/27 KALINGIAM MAIN ROAD
VELLAKATTUPALAYAM
GOBICHETTIPALAYAM (PO)
ERODE DISTRICT
- ... Appellants
- ... Respondent

Appeal under Clause 15 of the Letters Patent against the order dated 04-06-2014 made in W.P.No.17793 of 2012.

W.P.No.17793 of 2012:

Petition presented under Article 226 of the Constitution of India praying this Court to issue a Writ of certiorarified mandamus to call for the entire records pursuant to the order of the second respondent in Oo.Mu.No.5497/A1/2011 dated 18.11.2011; to quash the same and consequently to direct the respondents to appoint the petitioner on compassionate grounds in suitable post.

For appellants : Mr. K. Karthikeyan, GA

For respondents : Mr. Ma.P. Thangavel

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The intra-court appeal arises from the order dated 04-06-2014 rendered by the learned Single Judge in W.P.No.17793 of 2012. The writ court while regarding that the writ petitioner is the only daughter of the deceased, and having no other source of income, she being married, is also eligible for consideration for grant of compassionate appointment, as marriage is not a disqualification, subject to other conditions. The appellant-State is aggrieved by the observation, directing consideration without examining other aspects and has come forward with the present writ appeal.

2. This Court, while considering the entitlement of married daughter in the order dated 08-12-2014 in W.P.No.22709 of 2014 (P. Kamatchi Vs. The State of Tamil Nadu and another) has held as under:

"3. The case of the petitioner is that the petitioner was married only on 20.08.2012 and as such, she is entitled to be considered subject to certain conditions, which are prescribed in the said G.O¹. On perusal, it appears that the petitioner has one younger sister by name Thamizharasi. It is not clear as to whether her younger sister is eligible for appointment or not? However, the petitioner even if she is a married daughter of the deceased employee, she is entitled to consideration subject to certain conditions as stated in the said G.O. The said G.O. reads as under :

"Orders are issued with the following conditions for the issuance of appointments among those persons, mentioned as near relatives of the Government Servant, who died in harness, as per G.O 4th read above, and by virtue of being an unmarried woman, having submitted an application, seeking appointment, and who subsequently got married before being issued appointment, if they otherwise fulfill other eligibilities for their appointment on compassionate grounds.

1 G.O.Ms.No.96, Labour and Employment (Q1) Department dated 18-06-2012 (for reference)

(i) 'No Objection Certificate' from the remaining members of the family, while being an unmarried woman and after marriage when such woman is issued appointment, again a 'No Objection Certificate' from the remaining members of the family shall be submitted.

(ii) The individual who gets appointment opportunity after being married, shall submit an undertaking to the effect that they shall be helpful to their parents' family.

(iii) The person who is going to marry the woman, who has sought appointment on compassionate grounds, shall furnish an undertaking that he shall not cause hindrance in helping her parents in future."

3. The ratio which arises from the afore-stated observation is, that a married daughter is eligible for consideration subject to submission of 'no objection certificate' of other members of the deceased family and also with an undertaking from her and her husband that she will take care of the other members of the parents' family.

4. In that view of the matter, we are of the view that the impugned order may be modified to the extent that while considering the representation of the writ petitioner, the authorities may direct the writ petitioner to produce the undertaking as afore-stated and thereafter, pass orders accordingly, as per law, preferably within a period of four weeks from the date of receipt of a copy of this order.

5. The writ appeal is disposed of, accordingly. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

glp

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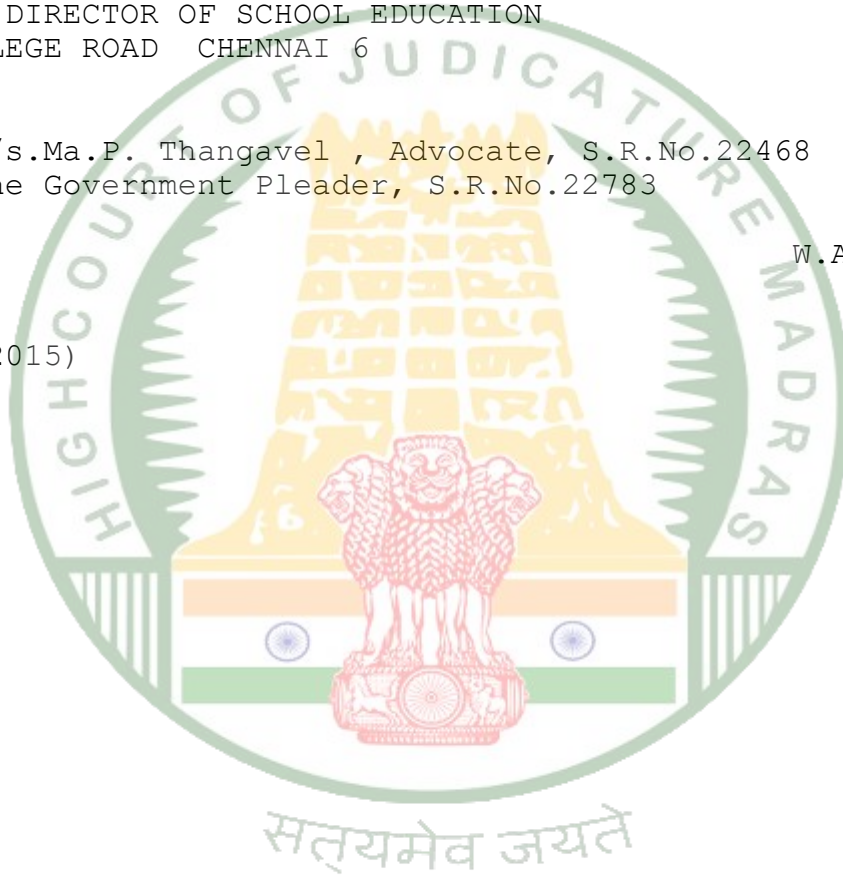
To

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+1cc to M/s.Ma.P. Thangavel , Advocate, S.R.No.22468
+1cc to the Government Pleader, S.R.No.22783

W.A. No.635 of 2015

MP (CO)
CA(29/04/2015)



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