

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.10.2015

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

WP.No.33995/2015 & MP.No.1/2015

1.T.Backiam
2.T.Nandagopal

..Petitioners

Versus

The Assistant Director
District Survey Office,
Tiruppur, Tiruppur District.

..Respondent

Prayer:-Writ petition filed under Article 226 of the Constitution of India praying for a issuance of a writ of certiorarified mandamus calling for the records relating to the proceedings of the respondent made in Na.Ka.No.A3/1909/2015 dated 08.04.2015, quash the same and consequently direct the respondent to consider the appointment of the 2nd petitioner on compassionate grounds.

For Petitioners: Mr.M.Devaraj

For Respondent : Mr.V.Subbiah, Spl.GP

ORDER

By consent, the writ petition is taken up for final disposal.

2. The 1st petitioner would state that her husband, viz., Thiru M.Thirumoorthy, was employed as Survey Assistant in Udumalaipettai Taluk Office and he died in harness on 17.11.2009. The husband of the 1st petitioner, at the time of his demise left behind the 1st petitioner-wife, 2nd petitioner-son and two daughters. The 1st petitioner has also submitted an application on 22.03.2010 seeking appointment on compassionate ground followed by another application dated 26.10.2012, requesting the respondent to appoint the 2nd petitioner on compassionate ground. It was also followed by reminders. The application submitted by the 1st petitioner seeking compassionate ground appointment for her son/2nd petitioner herein, was rejected on the ground that the 2nd petitioner did not attain the age of 18 years. On attainment of the age of majority of the 2nd petitioner, the 1st petitioner submitted an application seeking appointment on compassionate ground and it was also rejected by the respondent vide impugned memo dated 08.04.2015 stating that the said application came

to be filed 3 years after the demise of the husband of the 1st petitioner on 17.11.2009. Challenging the legality of the said order, the present writ petition has been filed.

3. Learned counsel for the petitioners would submit that though the 1st petitioner has submitted an application within the period of three years from the date of demise of her husband, it was not considered for the reason that the 2nd petitioner-her son, was a minor at the relevant point of time and on attainment of the age of majority, once again the application was submitted and it was unjustly rejected for the reason that the said application has been submitted beyond the period of three years from the date of the demise of the husband of the 1st petitioner and the impugned order is per se unsustainable in law and also placed reliance upon the judgment of this Court reported in 2011 [3] LLN 405 [Mad.] [J.Jeba Mary Vs. The Chairman, Tamil Nadu Electricity Board, Anna Salai, Chennai-2 and others] and prays for appropriate orders.

4. Per contra, Mr.V.Subbiah, learned Special Government Pleader, who accepts notice on behalf of the respondent would submit that since the application submitted by the 1st petitioner was admittedly beyond the period of three years from the date of the demise of her husband, it was rightly rejected by the respondent and hence, prays for dismissal of the writ petition.

5. This Court heard the rival submissions made on either side and also perused the materials placed before it.

6. Similar issue arose before this Court in the above cited judgment and this Court has taken note of the earlier judgments as well as the orders passed in SLP. [Civil] Nos.5068 and 5069/2009 and has also upheld the claim of the petitioner therein and set aside the impugned order with a direction to the respondent to consider the claim of the petitioner therein by treating the application as continuance of the earlier application and pass appropriate orders. In the considered opinion of the Court, the Judgment cited above, is having full application to the facts of the present case.

7. In the result, the writ petition is partly allowed and the impugned order dated 08.04.2015 passed by the respondent in Na.Ka.No.A3/1909/2015 is set aside and the matter is, once again, remanded to the respondent, who shall treat the application filed by the 1st petitioner seeking appointment on compassionate ground for her son, viz., the 2nd petitioner herein, as the continuance of the earlier

application and pass 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 and communicate the decision taken, to the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.
AP

Sd/-
Assistant Registrar (C.C.C.)

/True Copy/

Sub-Assistant Registrar

To

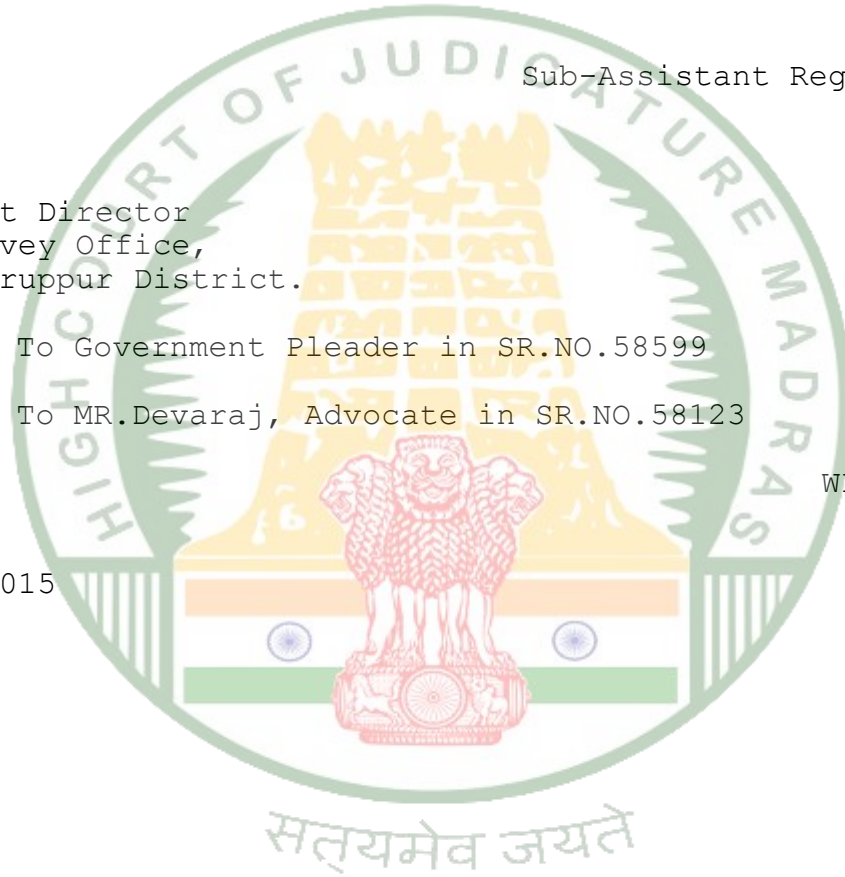
The Assistant Director
District Survey Office,
Tiruppur, Tiruppur District.

+1 C.C. To Government Pleader in SR.NO.58599

+1 C.C. To MR.Devaraj, Advocate in SR.NO.58123

WP.No.33995/2015

SAI (CO)
sd : 06/11/2015



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