IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.3.2015

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.32740 of 2013
and MP.No. 1 of 2013

Selvi. V.Chezhumathi .. Petitioner

Vs.

1. The Commissioner of Commercial Taxes
Chepauk, Chennai - 600 005

2. The Joint Commissioner of Commercial Taxes, Tiruchirappalli Division
Tiruchirapalli. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of mandamus Calling for the records pertaining to the order passed by the 2nd Respondent in his Proceedings Na.Ka.No. 9234/ 2012 / Aa2 dated 24.09.2013 and quash the same and direct the Respondents to appoint the petitioner as Junior Assistant on compassionate ground and confer all the consequential benefits.

For Petitioner : Mr.C.Vediappan

For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

The application submitted by the petitioner for Compassionate Appointment was rejected by the first respondent on the ground that as on the date on which the application was made, she was a minor.

2. The petitioner is the legal representative of Thiru. G.Venkatachalam, who worked as Assistant in the Office of Commercial Tax Officer, Nannilam. Her father died in harness on 01.07.2010 leaving behind the petitioner, her sister and mother. The petitioner submitted an application for Compassionate appointment on 17.6.2012. The application was returned with certain queries. The application was re- submitted on 29.8.2012. The application was kept pending by the second respondent and ultimately by order dated, 24.9.2013, it was rejected on the ground that the petitioner was minor and as such, she is not eligible for appointment. The said order is under challenge.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader on behalf of the respondents.

4. There is no dispute that as on the date on which the application was made by the petitioner, she was a minor. In case it is not possible to consider the application submitted by the minor petitioner, the Department should have rejected the application at that point of time. In the subject case, the respondents kept the application pending for months together and only after the petitioner attained majority, the application was rejected on the ground that she was a minor at the time when the application was originally made. I am not in a position to agree with the views expressed by the second respondent in the impugned order. It is a matter of record that as on the date on which, the impugned order was passed, the petitioner has become a major. Therefore, I do not find any reason to support the order passed by the second respondent.

5. In the result, the impugned order is set aside and the matter is remitted to the second respondent for fresh consideration. The second respondent is directed to consider and dispose of the representation for Compassionate appointment on merits and as per law without rejecting it on the ground that as on the date on which the application was originally made, the petitioner was minor. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

6. The writ petition is allowed to the extent indicated above. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Commercial Taxes
Chepauk, Chennai - 600 005

2. The Joint Commissioner of Commercial
Taxes, Tiruchirappalli Division
Tiruchirapalli.

+ 1 cc to M/s. C.S.Associates, Advocate SR.12966

+ 1 cc Government Pleader Sr.13797

KK(CO)
EU 24.03.2015