

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P.No.13505 of 2013
& M.P.Nos.1 of 2013 & 1 of 2015

R.Sasikala

.... Petitioner

Vs

- 1.The Government of Tamil Nadu,
rep. by its Principal Secretary to Government,
Department of Agriculture,
Fort St. George, Chennai-600 001.
- 2.The Director of Agriculture,
Agriculture Directorate,
Chepauk, Chennai-600 005.
- 3.The Joint Director of Agriculture,
Semmandalam, Cuddalore-607 001.
- 4.The Agriculture Bio-Chemical Officer,
Bio Fertilizer Production Centre,
Cuddalore.

.... Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the order No.Aa2/14818/10 dated 05.09.2012 issued by the third respondent, quash the same and consequently, direct the respondents to grant compassionate appointment to the petitioner.

For Petitioner : Ms.S.Meenakshi
For Respondents : Mr.V.Shanmugasundar,
Government Advocate

ORDER

The petitioner's father was employed in the office of the fourth respondent. He died on 27.11.2001 while in service. The petitioner approached the third respondent seeking compassionate appointment on 05.03.2002.

2. By the order impugned, the petitioner's request was rejected on the ground that the application having been made belatedly on 20.10.2010, which was received on 21.10.2010, her request cannot be considered. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the petitioner has approached the third respondent with her earlier application dated 05.03.2002 along with the death certificate of her father as well as the transfer and conduct certificates. This fact has not been disputed. Therefore, subsequent representation cannot be taken as a basis to deny her case.

4. Per contra, the learned Government Advocate appearing for the respondents, based upon the counter affidavit filed, submitted that the receipt of the application said to have been given by the petitioner on 05.03.2002 is not in dispute. The petitioner has approached the respondents with the requisite particulars only in the year 2010. Therefore, the order impugned does not require any interference.

5. From the counter affidavit filed, the fact that the petitioner has approached the third respondent on 05.02.2002 is not in dispute. The petitioner approached the 3rd respondent with (a) father's death certificate, (b) B.A., Degree Provisional Certificate, (c) Transfer and Conduct Certificates. The documents produced by the petitioner stating that she has approached the third respondent is disputed by the respondents. However, the said contention has not been incorporated in the order impugned. Therefore, it is not open to the respondents to take such a ground by way of counter affidavit seeking to improve their case.

6. Admittedly, the petitioner is a daughter of the deceased. The fact that the petitioner's father was an erstwhile employee of the office of the fourth respondent is also not in dispute. Further more, even according to the respondents, the petitioner has approached the third respondent immediately after the death of her father, that too, within the period of limitation. Therefore, this Court is of the considered view that the respondents cannot deny the case of the petitioner on a hyper technical view. Accordingly, the order impugned, dated 05.09.2012, is set aside and the writ petition stands allowed. Respondent-3 is directed to consider the case of the petitioner for compassionate appointment on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

raa

To

1.The Principal Secretary to Government,
Government of Tamil Nadu,
Department of Agriculture,
Fort St. George, Chennai-600 001.

2.The Director of Agriculture,
Agriculture Directorate,
Chepauk, Chennai-600 005.

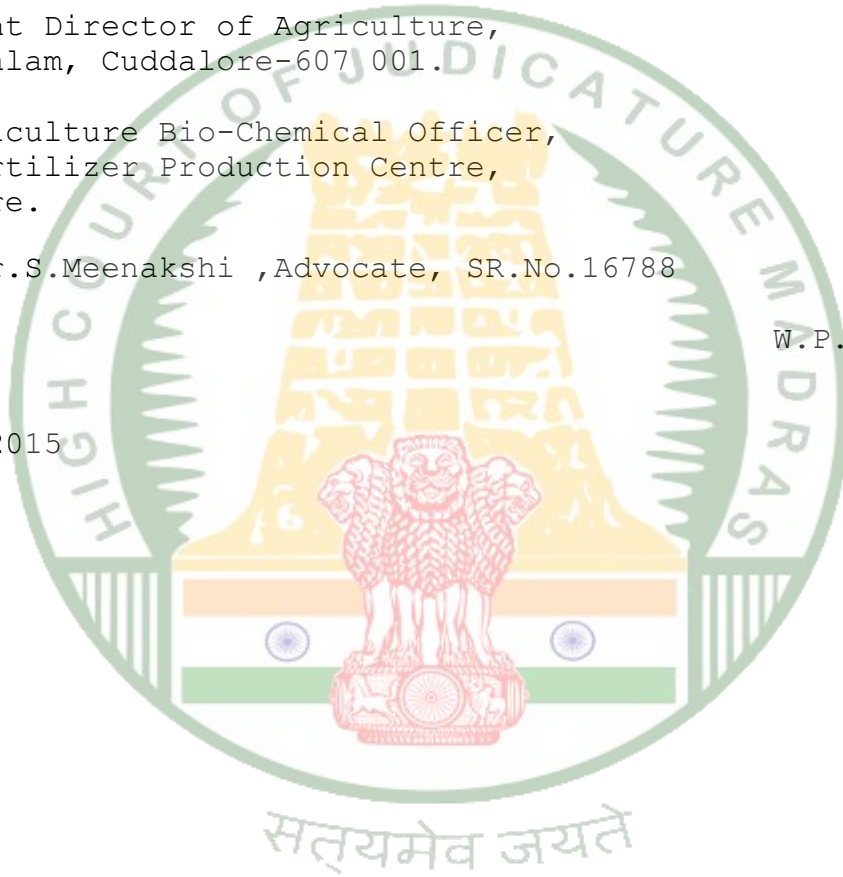
3.The Joint Director of Agriculture,
Semmandalam, Cuddalore-607 001.

4.The Agriculture Bio-Chemical Officer,
Bio Fertilizer Production Centre,
Cuddalore.

1 cc to Mr.S.Meenakshi ,Advocate, SR.No.16788

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