

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.31219 of 2014

and

M.P.No.1 of 2014

S.Bhuvaneswari

... Petitioner

Vs.

1.The District Collector,
Vellore District,
Vellore.

2.The Tahsildar,
Arcot,
Vellore District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records connected in Na.Ka.No.A3.22686/12, dated 09.05.2013 passed by the 1st respondent and to quash the same and to direct the respondents to consider the claim of the petitioner for appointment on compassionate ground in any one of the vacancy.

For Petitioners : Mr.R.Krishnamurthy

For respondents : Mr.C.Jagadish, Spl GP.

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 1st respondent in Na.Ka.No.A3.22686/12, dated 09.05.2013 and to quash the same and consequently, to direct the respondents to consider the claim of the petitioner for appointment on compassionate ground.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1.The petitioner's father was working as Village Assistant at Kavanoor Village, Arcot, Vellore District. On 09.02.2011, he died while in service, leaving behind him his wife and four daughters. Except the petitioner, the other three daughters got married and they were settled in their life. The petitioner is a physically challenged person and

her physical disability is more than 60%. The petitioner and her mother are living without any financial assistance from the other three daughters.

2-2.The petitioner has discontinued her schooling at Xth Standard and she belongs to Hindu Adi-Dravidar Community, which comes under Scheduled Caste Community. She is an unmarried girl. The petitioner's mother made a representation on 12.05.2011 to the 2nd respondent herein, requesting to give appointment on compassionate ground to her daughter (petitioner herein), but, there was no response to the said representation. Thereafter, the petitioner made representations to the 1st respondent on 06.06.2011, 27.08.2012 and 21.01.2013, with a request to give her an appointment on compassionate ground. The 1st respondent by his order dated Na.Ka.No.A3.22686/12, dated 09.05.2013 has rejected the claim of the petitioner, on the ground of over-age. Aggrieved over the same, the petitioner has come forward with the present writ petition before this Court.

3.When the matter is taken up for consideration, the learned counsel for the petitioner submitted that the request of the petitioner for compassionate appointment was rejected by the respondents stating that on the date of death of his father Sivaraj (Govt Servant), the petitioner was aged 35 years 8 months and 14 days 6, as such she is over-aged for compassionate appointment as per the Government Order in G.O.Ms.No.9, Labour and Employment (Rt) Department (Q1), dated 19.01.1998. In this regard, it is submitted by the learned counsel appearing for the petitioner that the petitioner belongs to Schedule Caste Community. The Government of Tamil Nadu, Labour and Employment Department, by letter No.46571/N1/82-3, dated 24.11.1982, has clarified the question of age relaxation in the case of Schedule Caste and Scheduled Tribe stating that the dependents of the deceased Government servants, belonging to the SC/ST Community, can be appointed on compassionate ground in relaxation of age rule even if they exceed the age limit prescribed in the Special Rules, when it is more beneficial to the individual. Thus, by relying upon the said Government Letter, dated 24.11.1982, the learned counsel for the petitioner submitted that the impugned rejection order passed by the 1st respondent is liable to be set aside. Thus, he sought for a direction to the respondents to provide compassionate appointment to the petitioner, by giving relaxation to the age limit.

4.Heard the learned Additional Government Pleader also and perused the materials available on record.

5.It is seen that Rule 5 (1) of the Special Rule for Tamil Nadu Basic Services prescribes the age limit as 35 years in respect of the Schedule Caste and Schedule Tribe, for appointment in the posts in Classes III & IV. However, the Government of Tamil Nadu, Labour and Employment Department, by letter No.46571/N1/82-3, dated 24.11.1982, has clarified the

question of age relaxation in the case of Schedule Caste and Scheduled Tribe stating that the dependents of the deceased Government servants, belonging to the SC/ST Community, can be appointed on compassionate ground in relaxation of age rule even if they exceed the age limit prescribed in the Special Rules, when it is more beneficial to the individual. Under such circumstances, as contended by the learned counsel for the petitioner, when there is a specific provision for relaxation, the respondents have to consider the above said relaxation provision as per the Government Order. Further, the petitioner belongs to Schedule Caste and as such, she can claim age relaxation in the light of the above cited Government Letter dated 24.11.1982. Under such circumstances, the impugned order rejecting the claim of the petitioner for compassionate appointment on the ground of over-aged, is not legally sustainable.

6.Hence, the impugned order dated 09.05.2013 passed by the 1st respondent is quashed and this Court directs the 1st respondent to pass appropriate orders, in respect of providing appointment to the petitioner on compassionate ground, by giving age relaxation, in the light of the Government Letter No.46571/N1/82-3, dated 24.11.1982, Labour and Employment Department, within a period of four weeks from the date of receipt of a copy of this order.

With the above terms, the writ petition is allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssv

To,

1.The District Collector,
Vellore District, Vellore.

2.The Tahsildar,
Arcot, Vellore District.

+1cc to M/s. R. Krishnamurthy, Advocate, S.R.No.55371

RSI (CO)
EU(24/10/2016)

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