

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.A. No.1243 of 2009
and M.P.No.1 of 2009

- 1.The Director of School Education,
College Road, Chennai 600 006.
- 2.The Chief Educational Officer,
Kanchipuram.
- 3.The District Educational Officer,
Chengalpattu.
- 4.The District Educational Officer,
North Madras, Chennai. ... Appellants

-vs-

R.Maheswari ... Respondent

Appeal filed under Clause 15 of the Letters Patent against the order dated 03.08.2009 made in W.P.No.44668 of 2006 on the file of this Court praying for Mandamus , directing the III Respondent to grant the appointment of the Junior Assistant cum typist at the chengelpet District Educational Office with retrospective effect from the 25.10.97 as per the orders of the first respondent the Director of School Education Roc.NO. 92474/J4/94 dated 17.9.97 and direct the payment of backwages till date with interest. सत्यमेव जयते

For Appellants : Mr.T.N.Rajagopalan
Spl.G.P.

For Respondents : No appearance

J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

The appeal is directed against the impugned order of the learned Single Judge dated 03.08.2009 directing that the

respondent was entitled to employment assistance on compassionate grounds being the daughter of the deceased mother / employee in the education department and an appointment should be provided to the respondent suitable to her educational qualification within the jurisdiction of District Educational Officer, Chengalpattu, within two (2) weeks from the date of receipt of copy of the order.

2.Learned counsel appearing for the respondent states that he has returned the bundle and thus, none is appearing for the respondent. Be that as it may, we have heard the learned Special Government Pleader for the appellants and perused the records.

3.We find at the inception that there has been no interim stay of the order and thus, the order ought to have been implemented by now. Learned Special Government Pleader has no answer to this aspect and it is quite clear that the appellants are in contempt of the orders of this Court. We will revert to that aspect later.

3.In so far as the merits of the case are concerned, the admitted factual position is that the father of the respondent abandoned her mother and went away to Kuwait, though there is no dispute about the fact that the mother of the respondent was the first wife of her husband and the respondent is the daughter. The pension department has not found pension admissible to the daughter possibly because of there being no legal separation between the husband and wife, but that is another aspect.

4.The Director of School Education / the first respondent actually recommended the case of the respondent for compassionate appointment, but the same was still not granted. One of the aspects is stated to be the factum of availability of the house, which she would inherit from the mother. But then, to survive, you need housing, clothing and income and merely because the mother has left the house for the respondent to reside cannot deprive her of compassionate appointment.

5.The purpose of providing compassionate appointment is to ameliorate the situation arising from such demise. This the respondent has certainly been deprived of by the callous attitude of the appellants. The employment assistance was sought in 1995, i.e. 21 years ago. An aspect taken into consideration while not granting her the benefit of compassionate appointment has been that the deceased mother, who was the Government servant, had married another person during the life time of the first wife of that person. In fact, that is the reason for the rejection of the pensionary benefits. This, as rightly observed by the learned Single Judge, does not change the status of the respondent as the child of the deceased

Government servant from a legal marriage, where the husband abandoned her mother. The respondent has been consistently shown as the daughter.

6.We are, thus, of the view that there is no reason to interfere with the elaborate and well-reasoned judgment of the learned Single Judge. Thus, we dismiss the appeal. No costs, as none represents the respondent.

7.In view of the pendency of the legal proceedings, more specifically the appeal for a long period of time without there being a stay, necessary age relaxation should be granted to the respondent.

8.Now, coming to the issue of initiation of contempt proceedings, we, at present, defer initiation of these proceedings to await at least now the compliance by the appellants.

9.List for compliance on 23.09.2016.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sra

To

- 1.The Director of School Education,
College Road, Chennai 600 006.
- 2.The Chief Educational Officer, Kanchipuram.
- 3.The District Educational Officer, Chengalpattu.
- 4.The District Educational Officer,
North Madras, Chennai.

Copy to:1. The Section Officer, Writ Section, High Court, Madras.
2. R. Maheswari, NO.21/10 NGGO.Colonly, 3rd Cross Street,
Choolaimadu, Chennai-94.

+ 1 cc to Mr.A. Nistor Hakkam, Advocate Sr.17/08/2016

W.A.No.1243 of 2009

CTK(CO)
EU 08.09.16