

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2016

CORAM

THE HON'BLE Mr. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE Mr. JUSTICE M.VENUGOPAL

W.A.No.252 of 2016
and
C.M.P.No.4278 of 2016

1. The Director of School Education,
Chennai - 6.
2. The District Elementary Educational
Officer, Thiruvallur.
3. The Assistant Elementary
Educational Officer,
Pallipattu, Thiruvallur District.
4. The Secretary to Government,
School Education Department,
Secretariat, Chennai - 9. ... Appellants/Respondents

G.S.Komala

... Respondent/Petitioner

Appeal filed under Clause 15 of the Letter of Patents Act
against the order dated 21.07.2015 in W.P.No.29639 of 2010.

W.P.No.29639 of 2010 : Petition filed under Article 226 of the
Constitution of India for the issuance of Writ of Certiorarified
Mandamus, calling for the records of the Order passed by the
Second Respondent herein vide his Pro.Ni.Mu.No.665/A1/98, dated
06.08.1999 rejecting the claim on compassionate appointment and
also order passed by the first respondent relating to
O.Mu.No.169/J4/2010 dated 26.02.2010, and quash the same and to
issue consquential directions to the respondents to give
appointment to the petitioner on compassionate grounds
consequent on the death of her father ThiruG.Ponnambalam on
17.1.1991, while in service, as secondary Teacher.

For Appellants : Mr.K.Karthigeyan,
Government Advocate

For Respondent : Mr.A.R.Suresh

JUDGMENT

(delivered by SATISH K.AGNIHOTRI, J.)

Mr.A.R.Suresh, learned counsel accepts notice on behalf of the respondent. With the consent of the learned counsel appearing for the parties, the writ appeal is taken up for final disposal at the admission stage.

2.The Intra Court Appeal arises from the order dated 21 July 2015 rendered by the learned Single Judge in W.P.No.29639 of 2010, whereunder, it was held that though the writ petitioner is the married daughter of the deceased, she is also eligible to be considered for compassionate appointment, as marriage is not a disqualification, subject to other conditions. The learned single Judge also directed the respondents therein/appellants to provide compassionate appointment to the writ petitioner within a period of eight weeks from the date of receipt of a copy of the said order. Aggrieved by the same, the State has come forward with the present writ appeal.

3.This Court, while considering the entitlement of a married daughter, in the order dated 08 December 2014 in W.P.No.22709 of 2014 (P. Kamatchi Vs. The State of Tamil Nadu and another) has held as under:

"3.The case of the petitioner is that the petitioner was married only on 20.08.2012 and as such, she is entitled to be considered subject to certain conditions, which are prescribed in the said G.O¹. On perusal, it appears that the petitioner has one younger sister by name Thamizharasi. It is not clear as to whether her younger sister is eligible for appointment or not? However, the petitioner even if she is a married daughter of the deceased employee, she is entitled to consideration subject to certain conditions as stated in the said G.O. The said G.O. reads as under :

"Orders are issued with the following conditions for the issuance of appointments among those persons, mentioned as near relatives of the Government Servant, who died in harness, as per G.O 4th read above, and by virtue of being an unmarried woman, having submitted

1 G.O.Ms.No.96, Labour and Employment (Q1) Department dated 18-06-2012 (for reference)

an application, seeking appointment, and who subsequently got married before being issued appointment, if they otherwise fulfill other eligibilities for their appointment on compassionate grounds.

(i) 'No Objection Certificate' from the remaining members of the family, while being an unmarried woman and after marriage when such woman is issued appointment, again a 'No Objection Certificate' from the remaining members of the family shall be submitted.

(ii) The individual who gets appointment opportunity after being married, shall submit an undertaking to the effect that they shall be helpful to their parents' family.

(iii) The person who is going to marry the woman, who has sought appointment on compassionate grounds, shall furnish an undertaking that he shall not cause hindrance in helping her parents in future."

4.The ratio which arises from the aforestated observation is that a married daughter is eligible for consideration subject to submission of 'No Objection Certificate' by the other members of the family of the deceased and also with an undertaking from her and her husband that she will take care of the other members of the family of the deceased.

5.In that view of the matter, we are of the view that the impugned order may be modified to the extent that while considering the representation of the writ petitioner, the authorities may direct the writ petitioner to produce the undertaking as aforestated and thereafter, pass orders accordingly, as per law, preferably within a period of four weeks from the date of receipt of a copy of this order. The impugned order passed by the learned single Judge is modified accordingly.

6.With the above observation and direction, the writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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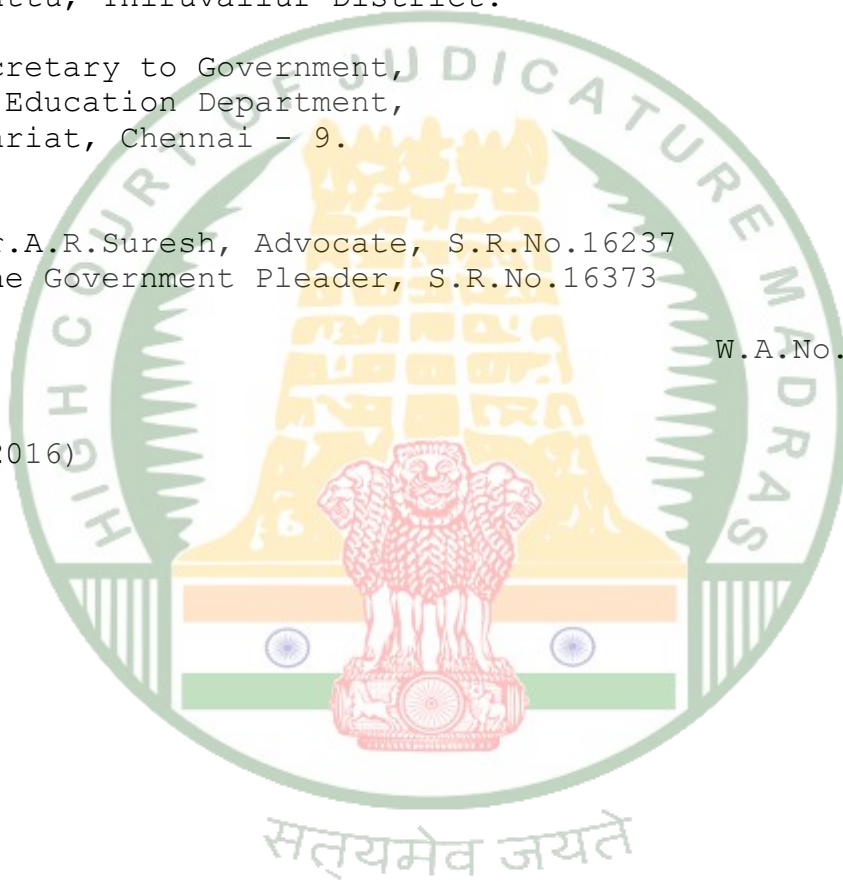
To

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+1cc to Mr.A.R.Suresh, Advocate, S.R.No.16237
+1cc to the Government Pleader, S.R.No.16373

W.A.No.252 of 2016

CTK (CO)
CA (23/03/2016)



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