

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.31438 of 2016

A.Govindaraj

... Petitioner

Vs.

1. Government of Tamil Nadu,
rep.by Secretary to Government,
Revenue Department,
Secretariat, Chennai-600 009.
2. The Principal Secretary/Commissioner of
Survey & Settlement,
Chepauk, Chennai-600 005.
3. The Additional Director of Survey and
Land Records,
Directorate of Survey & Settlement,
Chepauk, Chennai-600 005.
4. The Assistant Director of Survey
and Land Records,
Salem.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents herein to forthwith provide appointment to the petitioner on compassionate grounds, commensurate with qualification and eligibility.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.C.Jagadish,
Special Government Pleader

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to forthwith provide appointment to him on compassionate grounds, commensurate with qualification and eligibility.

3. It is the case of the petitioner that his father S.Arumugam was working as Field Surveyor in the Office of the Assistant Director of Survey and Land Records Salem and on 2.1.1995, he died while in service leaving behind his wife Kalaiarasi, the petitioner, Padmavathi and Lalitha, his daughters and Muniammal, his mother. After his death, during 1996, the petitioner's mother submitted a representation to the Special Assistant Director of Survey and Land Records, Salem to give her appointment on compassionate grounds, who in turn, instructed his mother to attend his office on 28.4.1997 with all relevant records. Accordingly, his mother attended the office and produced all the certificates. However, after a lapse of more than six years, the petitioner's mother was informed that there is a ban on recruitment on compassionate grounds and as soon as the ban is lifted, she may renew her application. In the meantime, his mother expired on 9.11.2001 and his grandmother also expired. The petitioner as soon as attained the age of 18 years, made a representation dated 22.8.2005 to the Commissioner and Director of Survey and Settlement, Chennai-5 through proper channel for giving him appointment on compassionate grounds in continuation of his mother's representation. He was also instructed to make representation as soon as the ban was lifted. Thereafter, as soon as the ban was lifted, the petitioner submitted an application in the prescribed format with all enclosures on 2.4.2007. However, the Assistant Director of Survey and Land Records, Salem, by proceedings dated 22.11.2007 informed the petitioner that appointment on compassionate grounds cannot be granted since as per classification issued by the Government, the three years limitation period stipulated in G.O.Ms.No.120, Labour and Employment Department dated 26.6.1995 would apply to all those employees, who died prior to 26.6.1996. In view of the same, the petitioner made an appeal dated 16.10.2008 to the Government pointing out that his mother applied within the stipulated period of three years i.e., in December 1996 itself. Thereupon, the Government, by letter dated 12.10.2012 request the Commissioner / Director of Survey and Settlement to clarify as to why action was not taken as per G.O.Ms.No.23, Labour and Employment Department, dated 10.2.1993. Thereafter, there is no progress. In this regard, the petitioner sent another representation dated 5.9.2015 seeking compassionate appointment. Till date, the same was not considered. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. Learned counsel appearing for the petitioner submitted that in identical situation, this Court by order dated 3.12.2010 in W.P.No.25381 of 2010 in the case of A.Seenivasan v. District Educational officer, Krishnagiri, Krishnagiri District passed a detailed order by referring to the judgments of the Hon'ble Supreme Court reported in (2006) 9 SCC 195 - Byed Khadim Hussain v. State of Bihar and the judgment of the Division Bench of this Court dated 8.3.2005 made in W.A.No.3050 of 2003 in the case of Indirani Ammal v. Chief Engineer, TNEB and directed the respondent therein to consider the representation of the petitioner therein to provide compassionate appointment. Hence, following the same, similar order could be passed in this writ petition also.

5. I have heard the learned Special Government Pleader, who has taken notice on behalf of the respondents.

6. Though the petitioner sought for a larger relief, considering the facts and circumstances of the case, without going into the merits of the claim made by the petitioner, this Court directs the petitioner to send a copy of the representation dated 5.9.2015 along with a copy of this order to the second respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the second respondent is directed to consider the said representation and pass appropriate orders on merits and in accordance with law and also in the light of the judgment of the Hon'ble Supreme Court reported in (2006) 9 SCC 195 - Byed Khadim Hussain v. State of Bihar and the judgment of the Division Bench of this Court dated 8.3.2005 made in W.A.No.3050 of 2003 in the case of Indirani Ammal v. Chief Engineer, TNEB, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sbi

To

1. The Secretary to Government,
Revenue Department,
Secretariat, Chennai-600 009

2. The Principal Secretary/Commissioner of
Survey & Settlement,
Chepauk, Chennai-600 005

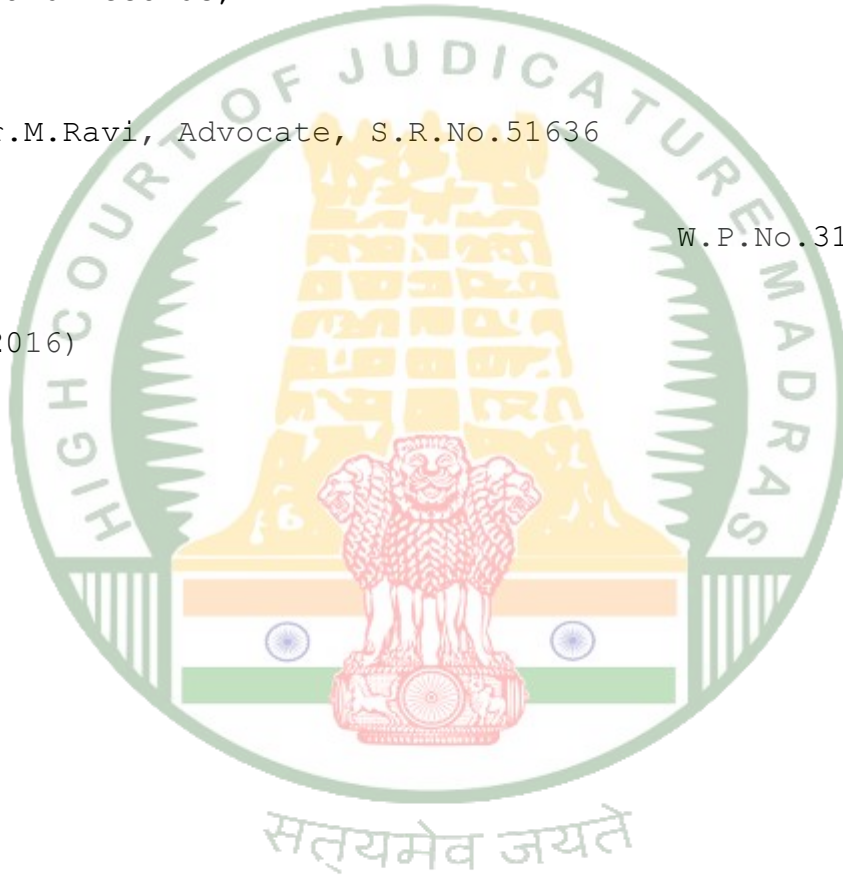
3. The Additional Director of Survey and
Land Records,
Directorate of Survey & Settlement,
Chepauk, Chennai-600 005

4. The Assistant Director of Survey
and Land Records,
Salem.

+1cc to Mr.M.Ravi, Advocate, S.R.No.51636

W.P.No.31438 of 2016

KK(CO)
CA(27/09/2016)



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