

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.41531 of 2016

E.Ravikumar

.. Petitioner

Vs

- 1 The Government of Tamil Nadu
Rep. by its Secretary Higher Education
Department Fort St. George Chennai-9.
- 2 The Director of Technical
Education Guindy Chennai-32.
- 3 The Principal
Dr.Dharmambal Government Womens Polytechnic
College Tharamani Chennai-113.

.... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the first respondent herein to consider the appeal of the petitioner dated 29.8.2016 against the order of the third respondent in Letter No.Mu.Mu.3181/ A1/2011 dated 12.8.2016 sympathetically and in light of Government Order (2D) No.36 Revenue (Est.9(3) Department dated 13.1.2014 whereby the upper age limit was relaxed to a similarly situated individual and in the light of the judgements of this Honourable Court in W.P. No.744/2005 dated 27.10.2005 and W.A. No.1565/2005 dated 16.10.2015 and accordingly direct the respondents herein to grant the petitioner with compassionate appointment within the time frame to be fixed by this Court.

For Petitioner : Mrs.Dakshayani Reddy

For Respondents : Mr.V.Anandhanamoorthy,
Addl. Govt. Pleader (Edn)

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 first respondent to consider his appeal dated 29.8.2016 against the order of the third respondent in Letter No.Mu.Mu.3181/ A1/2011 dated 12.8.2016 sympathetically and in light of Government Order (2D) No.36 Revenue (Est.9(3) Department dated 13.1.2014 whereby the upper age limit was relaxed to a similarly situated individual and in the light of the judgments of this Court in W.P. No.744 of 2003 dated 27.10.2005 and W.A.No.1565 of 2005 dated 16.10.2015 and accordingly, to direct the respondents to give compassionate appointment to him within the time frame to be fixed by this Court.

3. It is the case of the petitioner that his mother M.Ravanamma was working as Sweeper in the third respondent college. She died on 8.9.2011 while in service, leaving behind the petitioner's father and six children. All the other children have given no objection certificate for the petitioner to be appointed on compassionate grounds on the death of their mother. Hence, the petitioner made an application for appointment on compassionate grounds within three years from the date of death of his mother. But, his request was rejected on the ground that he crossed the age limit of 35 years. However, since the petitioner belongs to Schedule Caste community, he is entitled for relaxation of 5 years of age with respect to direct recruitment as per Rule 12 of the Tamil Nadu State and Subordinate Service Rules. In similar situation, the first respondent vide G.O.(2D) No.36, Revenue Department dated 13.1.2014, relaxed the upper age limit of appointment on compassionate grounds by a period of five years. In this regard, the petitioner preferred an appeal before the first respondent. But, till date, the first respondent has not passed orders in the said appeal. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner submitted that since the petitioner belongs to Schedule Caste community, he is entitled for relaxation of 5 years of age with respect to direct recruitment as per Rule 12 of the Tamil Nadu State and Subordinate Service Rules. Even otherwise, the respondents have got the right of relaxation under Rule 48, when the application of any rule of the said Rules causes hardship to any individual or group of individual. In fact, the first respondent vide G.O.(2D) No.36, Revenue Department dated 13.1.2014, relaxed the upper age limit of appointment on compassionate grounds by a period of five years. Further, the learned counsel appearing for the petitioner has also invited the attention of this Court to the order of the Division Bench of this Court dated 16.10.2015 made in W.P.No.744 of 2003 and the judgment dated 16.10.2015 made in W.A.No.1565 of 2005 and submitted that in identical situation, the Division Bench of this Court allowed the claim of the petitioners therein. Hence, he sought for a direction in the light of the said judgments.

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

6. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the first respondent to dispose of the appeal preferred by the petitioner dated 29.8.2016, on merits and in accordance with law and also in the light of the decision of the Division Bench of this Court made in W.P. No.744 of 2003 dated 27.10.2005 and W.A.No.1565 of 2005 dated 16.10.2015 within a period of six weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

sbi

To

- 1 The Secretary Higher Education
Department Fort St. George Chennai-9.
- 2 The Director of Technical
Education Guindy Chennai-32.
- 3 The Principal
Dr.Dharmambal Government Womens Polytechnic
College Tharamani Chennai-113.

+1 CC to M/S.Dakshayani Reddy, Advocate SR.No.69437

+1 CC to The Government Pleader, SR.No.69626

CO-SVI

ths : 29.12.2016

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