

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Orders reserved on 17.10.2016)

DATED : 18.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.7464 of 2016

R.Gayathri & Shivani ... Petitioner

Vs.

The District Collector,
Kancheepuram District. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the entire records which culminated in issuing the proceedings in Na.Ka.No.27151/2015/Pa3, dated 11.12.2015 of the respondent and to quash the same and consequently, to direct the respondent to appoint the petitioner in any suitable post befitting to her educational qualification on compassionate grounds within a time limit.

For Petitioner : Mr.M.Premnath

For respondent : Mr.D.Suriya Narayanan, GA

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सत्यमेव जयते
ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the proceedings in Na.Ka.No.27151/2015/Pa3, dated 11.12.2015 of the respondent and to quash the same and consequently, to direct the respondent to appoint the petitioner in any suitable post befitting to her educational qualification on compassionate grounds.

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 Rangarajan was employed as Assistant in the office of Elathur Panchayat Union. During the course of his service, the petitioner's father died on 01.01.1999, leaving behind him, the petitioner (daughter) and her mother Renuka, who is his second wife, and others, as his

legal heirs. At the time of the death of the petitioner's father, the petitioner was aged 2 years. Now, the petitioner has passed +2 standard and she is pursuing B.Sc. degree course.

2-2.It is further stated by the petitioner that soon after the death of the petitioner's father, due to illiteracy, no one of her family members applied for appointment on compassionate grounds. Therefore, after attaining majority, the petitioner made an application dated 23.11.2015 to the respondent requesting to give her an appointment on compassionate grounds. While the petitioner was anticipating favourable reply, she was shocked to receive the impugned proceedings in Na.Ka.No.27151/2015/Pa3, dated 11.12.2015, whereby the claim of the petitioner for appointment on compassionate grounds was rejected on the sole ground that the application seeking appointment on compassionate grounds was submitted belatedly after 14 years. According to the petitioner, the respondent failed to take note of the fact that at the time of death of her father, the petitioner was only 2 years old; therefore, the period of three years for submission of application seeking appointment on compassionate grounds has to be reckoned from the date of which the applicant attained majority. Hence, challenging the impugned rejection order, the petitioner has come forward with the present writ petition.

3.When the matter was taken up for consideration, the learned counsel for the petitioner made his submissions, by adverting to the verments made in the affidavit filed in support of the writ petition.

4.The learned Government Advocate appearing for the respondent, by filing a detailed counter, would contend that as per the Government Orders in G.O.(Ms).No.42, Labour and Employment (Q1) Department, dated 12.03.2007 & Government Letter (Ms).No.202, Labour and Employment Department, dated 08.10.2007, the application for compassionate appointment should be submitted within three years from the date of death of the government employee. Since the petitioner herein has made application seeking for compassionate appointment after a lapse of 14 years, her application was rightly rejected by the respondent by the impugned order. It is further contended by the learned Government Advocate that the petitioner has applied for compassionate appointment, by submitting a Legal Heir Certificate issued by the Tahsildar, Cheyyar, Tiruvannamalai District vide. Pa.N.(Aa1)/8998/98, dated 04.11.1999, issued to Tmt.Meenakshi Ammal W/o.Kesava Shanmugam, who is the mother of late Rangarajan-deceased employee and in the said Legal Heir Certificate, the name of the petitioner has been mentioned as 5th legal heir born to the second wife of the deceased Rangarajan. Further, from the records, it was found that the first wife Tmt.R.Geetha and her daughter Sridevi have filed a case of Succession Right Petition No.5/2000 before the Sub-Court, Cheyyar seeking to issue directions to the competent authority to issue Legal

Heir Certificate to them and the mother of the deceased Rangarajan. The Sub-Court, Cheyyar, by judgment dated 10.11.2011, ordered the competent authority to issue Legal Heir Certificate in favour of the said three persons only. Accordingly, based on the order of the Sub-Court, Cheyyar, Legal Heir Certificate was issued in favour of the said Geetha (first wife), Sridevi (daughter) & Meenakshi Ammal (Mother) of the deceased Rangarajan, vide Pa.Mooo.438/2012/Aa2, dated 30.03.2012. In view of the subsequent Legal Heir Certificate dated 30.03.2012, which was issued by virtue of the order of the Sub-Court, the earlier Legal Heir Certificate dated 04.11.1999 produced by the petitioner has become invalid and as such, the petitioner is not entitled for compassionate appointment on the basis of the said legal heir certificate dated 04.11.1999. Thus, the learned Government Advocate sought for dismissal of the writ petition.

5. Heard the submissions made on either side and perused the materials available on record.

6. It is the case of the petitioner that her father Rangarajan was working in Elathur Panchayat Union Office as Assistant and he died in harness on 01.01.1999. It is seen that the petitioner is the daughter of the second wife of the said Rangarajan. She sought for compassionate appointment based on the Legal Heir Certificate dated 04.11.1999 issued by the Tahsildar, Cheyyar, Tiruvannamalai District. But, it is seen from the materials on record that subsequently, the Tahsildar, Kancheepuram vide Pa.Moo.438/2012/Aa2, dated 30.03.2012 has issued Legal Heir Certificate, pursuant to the direction given by the Sub-Court, Cheyyer, in Succession Right Petition No.5/2000, dated 10.11.2011 and in the said Legal Heir Certificate, only the 1st wife Geetha, daughter Sridevi and his mother Meenakshi Ammal were shown as Legal Heirs of the deceased Rangarajan. Hence, in view of the subsequent Legal Heir Certificate dated 30.03.2012, as contended by the learned Government Advocate, the earlier Legal Heir Certificate dated 04.11.1999 has become invalid.

7. Further more, in the instant case, the application for compassionate appointment was made by the petitioner only after a lapse of nearly 14 years from the date of death of the deceased employee. Therefore, the respondent has correctly rejected the request of the petitioner for compassionate appointment. According to the learned counsel for the petitioner, she was only 2 years old at the time of death of her father, the deceased employee; that is why, she has submitted the application after attaining the majority. But, in my considered opinion, when the family is able to survive for the intervening period of 16 years, this Court cannot give any direction to consider the application for compassionate appointment. Under such circumstances, I do not find any merit in the writ petition and the same liable to be dismissed.

In fine, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssv

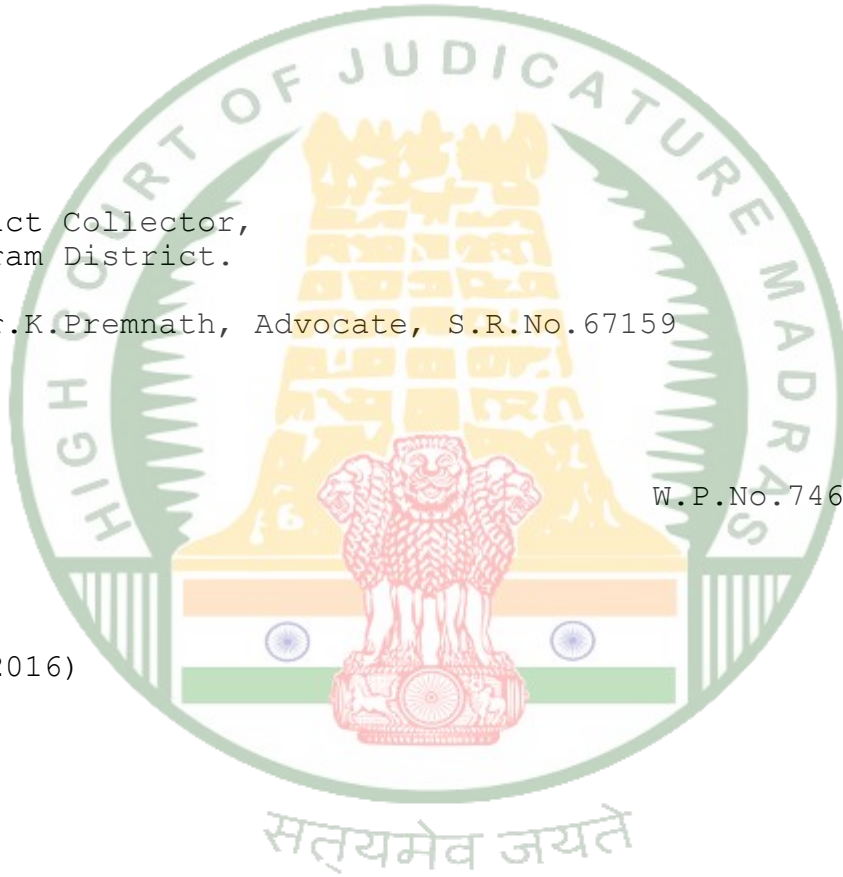
To,

The District Collector,
Kancheepuram District.

+1cc to Mr.K.Premnath, Advocate, S.R.No.67159

W.P.No.7464 of 2016

KJI (CO)
MA(29/12/2016)



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