



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2016

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P(MD) No.11660 of 2015

C.Kaveri

... Petitioner

-vs-

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

2. The Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai- 600 005.

3. The District Collector,
Ramanathapuram District,
Ramanathapuram.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, directing the 1st and 2nd respondents to pass appropriate orders on the reference No.R.C.A3/22052/2012 dated 30.05.2013 of the District Collector, Ramanathapuram within a specified time frame.

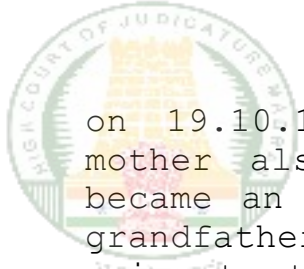
For Petitioner : Mr.S.Visvalingam
For Respondents : Mr.S.Kumar,
Addl. Govt. Pleader

ORDER

This petition has been filed, seeking to direct the 1st and 2nd respondents to pass appropriate orders on the reference No.R.C.A3/22052/2012 dated 30.05.2013 of the District Collector, Ramanathapuram within a specified time frame.

2. Heard the learned counsel on either side.

3. The case of the petitioner is that her father was serving as Record Clerk in the Taluk Office at Rameswaram and he expired on 14.11.1999 while in service; that the petitioner's mother was appointed as Junior Assistant in the Taluk Office, Ramanathapuram

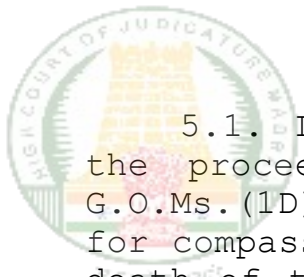


on 19.10.1994 on compassionate ground; that subsequently, her mother also died on 28.05.1996, due to which, the petitioner became an orphan at the age of 3 and she was taken care by her grandfather and her grandfather also died on 26.03.2003; that prior to the death of her grandfather, a representation was made by her grandfather, requesting appointment to the petitioner on compassionate ground, however, his request was rejected on 21.08.2000 stating that since she has not completed the required educational qualification, it was not possible to offer appointment on compassionate ground.

3.1. The further case of the petitioner is that she, after completion of her +2 examination and attaining majority, applied for suitable appointment on compassionate ground on 02.09.2010 to the District Collector, who, in turn, called for proposals from the Tahsildar, Ramanathapuram vide his memo dated 23.12.2010 and the Tahsildar also sent a detailed proposal to the District Collector by letter dated 18.07.2011 in No.R.C.A6/6446/2011; thereafter, the District Collector, Ramanathapuram sought for certain clarification from the Commissioner of Revenue Administration, Chennai and also reported to the Commissioner of Revenue Administration, Chennai that her seniority number is 2 in the waiting list and eight posts have been allotted to Ramanathapuram District for appointment on compassionate grounds as per letter No.R.C.A3/22052/2012 dated 30.05.2013 and even after the said report, no orders were passed by the 1st and 2nd respondents and therefore, having left with no other option, the petitioner is before this Court seeking the relief stated supra.

4. The 3rd respondent has filed a counter, wherein it has been stated that this petition is liable to be dismissed on the ground that it is barred by limitation and that the Government in its letter No.23315/Ser-9(2)/2013-5 dated 05.08.2015 has rejected the plea of the petitioner on the basis of belated representation citing G.O.Ms.No.120 Labour and Employment Department dated 26.06.2005 and the Government Letter (Ms) No.202, Labour and Employment Department dated 08.10.2007 and the judgment of the Hon'ble Supreme Court of India in AIR 2002 SC 2722 that there is no need to reserve a post of for the minor heir of the deceased Government Servant.

5. Learned counsel for the petitioner has submitted that it is now settled that statutory period of limitation, viz., three years, in respect of minors has to be calculated from the date of their attaining majority and in support of his submission, he also relied upon a judgment in **T.Meer Ismail Ali's case** reported in **2004 (3) CTC 120**, wherein it has been held that compassionate ground application can be made within three years after attaining



5.1. Learned counsel for the petitioner further relied upon the proceedings of the Government dated 03.12.2014 passed in G.O.Ms.(1D) No.257 School Education Department, by which the claim for compassionate appointment was considered after 15 years of the death of the deceased employee and the said Government Order was issued based on the order passed by this Court in W.P.(MD) 3395 of 2010 dated 08.02.2012, where-under this Court directed the respondent therein to consider the appointment of the petitioner therein on compassionate ground without reference to the period of limitation.

6. So far as this case is concerned, it cannot be said that the request of the petitioner is barred by limitation, as the grandfather of the petitioner submitted an application even in the year 1997 after the death of the petitioner's mother on 28.05.1996, which got rejected on 21.08.2000 vide O.Mu.A.No.4/57379/2000. The contention of the respondents, that there is no need to reserve one post solely for the purpose of minors being appointed on compassionate ground in the light of the judgment of the Hon'ble Supreme Court reported in **AIR 2002 SC 2722**, cannot be accepted, as the Hon'ble Supreme Court in the subsequent judgment in **SLP(C) No.8305 of 2010 dated 06.07.2010** held that the period of limitation with regard to the minor has to be calculated only after attaining majority and confirmed the orders of the Hon'ble Division Bench of this Court passed in W.A.No.42 of 2007, which directed the Tamil Nadu Electricity Board therein to give appointment to the petitioner therein on compassionate ground.

7. In view of what is stated hereinabove, the respondents are directed to provide employment to the petitioner on compassionate ground within a period of eight weeks from the date of receipt of a copy of this order, subject to the eligibility of the petitioner to the category of post, for which, she is entitle to.

With the above direction, this Writ Petition is disposed of. No costs.

sd/-

Assistant Registrar

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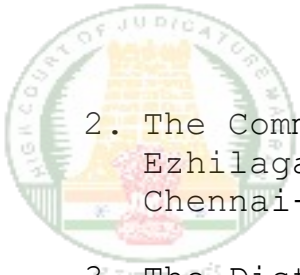
Sub Assistant Registrar

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To:

1. The Secretary to Government,
Revenue Department, Secretariat,

<https://hcservices.ecourts.gov.in/hcservices/> 09.



2. The Commissioner of Revenue Administration,
Ezhilagam, Chempauk,
Chennai-600 005.

3. The District Collector,
Ramanathapuram District,
Ramanathapuram.

+1CC to Mr.S.Visvalingam, Advocate Sr.No.56856
+1CC to Spl.Government Pleader Sr.No.57024

GJM/SS3/15.12.16-4p-6C

W.P (MD) No.11660 of 2015
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