

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED :17.06.2016****CORAM****THE HONOURABLE MR.JUSTICE T.RAJA****W.P (MD) No.1544 of 2014**

S.Sumathi .. Petitioner
vs.

1.The Government of Tamilnadu,
Rep. By its Secretary,
Department of Social Welfare and Noon Meal,
Fort St. George, Secretariat,
Chennai - 600 009.

2.The Commissioner,
Thiruchuli Village Panchayat,
Virudhunagar District.

3.The District Collector,
Virudhunagar District,
Virudhunagar.

4.The Block Development Officer,
Thiruchuli,
Virudhunagar District.

5.The Tahsildar,
Aruppukkottai Taluk,
Virudhunagar District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the fourth respondent in Na.Ka.A4/2803/2013, dated 17.10.2013, quash the same and consequently direct the respondents to give appointment to the petitioner on compassionate grounds.

For Petitioner :M/s.R.Anjana

For R-4 :Mr.T.S.Mohammed Mohideen,
Additional Government Pleader

For R-1 TO3 &5 :Mr.M.Rajarajan,
Government Advocate

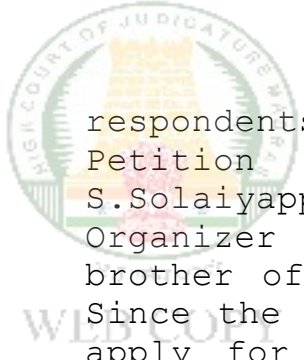
**ORDER**

Miss.S.Sumathi, D/o. late. S.Solaiyappan, Sengulam village was denied appointment on compassionate ground by the Block Development Officer, Thiuchuli, Virudhunagar District.

2. The learned counsel appearing for the petitioner would submit that her father S.Solaiyappan while serving as Noon Meal Organizer in Panchayat Union School at Vaagaikulam, died on 12.12.1992, leaving behind the petitioner and her brother, when they were at 5 and 8 years respectively. After the death of her father, they have made an application seeking appointment to her elder brother, who reached the age of 18 years in the year 2002. Finding no response, a representation was given in the 2006 reminding that her elder brother may be given appointment on compassionate ground, for which, a reply was received on 21.12.2006 from the fourth respondent stating that for the Post of Noon Meal Organizer, only lady candidate alone will be considered from the same family, if she applies and found eligible as per the Government Rule. Based on the reply, dated 21.12.2006, the petitioner has made a representation in the year 2012, after attaining the age of majority in the year 2009, for the same Post, with all relevant documents. Finding no response, another representation was also made on 30.09.2013, for which also, a reply was sent on 08.10.2013. After repeated representations, they have received a reply from the Office of the District Collector and directed the petitioner to make an application before the Commissioner, Tiruchuli Village. But after sometime, the Block Development Officer, has rejected her application for appointment on compassionate ground stating that the father of the petitioner died in the year 1992 before issuance of G.O.Ms.No.198, Social Welfare and Noon Meal Department, dated 25.10.2007, but the petitioner has made an application only in the year 2012 although she had attained majority in the year 2009, by then it is time barred.

3. Concluding his argument, the learned counsel for the petitioner would submit that when the petitioner's mother made an application immediately after the death of her husband late S.Solaiyappan on 12.12.1992 while serving as a Noon Meal Organizer at Vaagaikulam through application in the year 2006, the same was returned with a reply on 21.12.2006 stating that only lady member of the family alone is entitled to apply for the Post of Noon Meal Organizer, as per the Government Rule. But, however, when the girl child of late.S.Solaiyappan was not at the requisite age for getting employment, after attaining the majority, the application was filed in the year 2012 seeking appointment to the petitioner, therefore, the respondents cannot deny the request of the petitioner when there is no counter claim made by anyone.

4. The learned Additional Government Pleader appearing for the



respondents 1 to 3 and 5 urges this Court to dismiss the Writ Petition on the ground that the petitioner's father late S.Solaiyappan died on 12.12.1992 while serving as Noon Meal Organizer in Panchayat Union School, Vaagaikulam, thereafter, brother of the petitioner had made an application on 19.12.2006. Since the Scheme of the Act, enables only the lady candidate to apply for the Post of Noon Meal Organizer, a reply was given informing them to make an application for a female member of the family, if they are eligible. Although it was contended before this Court that the petitioner attained majority in the year 2008, to their whims and fancies keeping quiet without applying for compassionate appointment within a period of three years from the date of attaining majority and with a huge delay they have applied only in the year 2012. Therefore, the belated application clearly shows that they were able to sustain from the date of death of Mr.S.Solaiappan till the date of making the application. As the petitioner had failed to make an application repeatedly as per the Government Rule, the fourth respondent is right in passing the impugned order rejecting the claim of the petitioner.

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

6. Firstly, after the death of the petitioner's father namely S.Solaiyappan, the petitioner's brother made an application for Noon Meal Organizer, which was not permissible, for, as per the Government Rules, for the Post of Noon Meal Organizer, only lady candidate alone, is suitable and eligible. However, a reply was sent on 21.12.2006 by the Block Development Officer, informing to make an application seeking appointment for any of the female member of the family. But it is not known why they did not apply for compassionate appointment, when the petitioner attained majority in the year 2008 itself and that shows that the petitioner's family was able to withstand on their own.

7. Further, it was also contended that due to the ban imposed by the Government during 2001 - 2006, the petitioner was not able to make any application. The said contention is also not acceptable. The reason is, when they have made an application in the year 2006, rightly a reply was given on 21.12.2006 informing them to apply for a female candidate. Further, the petitioner committed a mistake in not making any application for appointment on compassionate ground within three years from the date of attaining majority and the same was applied only in the year 2012. Hence, this Court does not find any infirmity in the impugned order passed by the fourth respondent.



In the result, the Writ Petition fails and the same is dismissed. No Costs.

Sd/
Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

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Rep. By its Secretary,
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Virudhunagar District.

+1cc to Mr.R.Ajmal, Advocate in SR.No.31533

+1cc to M/s.S.Mohamed Mohideen, Advocate in SR.No.31448

SDR/AAL-MPA/05.07.2016/4P/8C

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