



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated : 29.11.2016

C O R A M

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THE HONOURABLE DR.JUSTICE S.VIMALA

Writ Petition (MD) No.4994 of 2015
and M.P (MD) No.1 of 2015

M.S.S. Jannathul Firthous .. Petitioner
Vs.

1.The Director of School Education,
Directorate of School Education,
DPI Compound,
College Road, Chennai - 600 006.

2.The District Educational Officer,
Dindigul,
Dindigul 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 relating to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.NO. 3576/A1/2010 dated 17.03.2015 and quash the same as illegal and consequently to direct the respondents to provide employment to the petitioner as Junior Assistant on compassionate ground within a stipulated time.

For Petitioner ... Mr.C.Venkatesh Kumar
For Respondents ... Mr.M.Murugan
Government Advocate

O R D E R

This is a writ of Certiorarified Mandamus, challenging the order of the second respondent, dated 17.03.2015, by which, the request of the petitioner for appointment on compassionate ground was rejected and also for a consequential direction to the respondents to provide employment to the petitioner as Junior Assistant on compassionate ground.

2. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

3. The case of the petitioner is that the petitioner's mother one T.Rathinam, who was working as a Drawing Teacher at Duraikamalam Government Higher Secondary School, Natham, Kovilpatti, Dindigul District, died on 01.05.2006 in harness due to heart attack leaving behind the petitioner, petitioner's father, brother and sister, as legal heirs.



3.1. At the time of her death, the petitioner and his brother was married and they were living separately and later, the petitioner got divorced from her husband by the divorce deed dated 11.06.2012. The petitioner submitted an application for appointment on compassionate ground on 17.10.2007. The same was returned by the second respondent on the ground that it was not on prescribed format. Thereafter, the application was re-submitted and it was against returned on the ground that the petitioner's father is receiving pension. Hence, the petitioner filed W.P.(MD)No.794 of 2015, seeking appointment on compassionate ground. This Court, by order dated 22.01.2015, has expressed its opinion that the claim for compassionate appointment cannot be rejected only on the ground that the petitioner's brother is a lawyer. The relevant observation of the order is extracted as under:-

"13. Insofar as the other reason, namely, the brother of the petitioner is a practicing Advocate is concerned, first of all, it is to be noted that there is no presumption that the brother who is said to be practicing as an Advocate is constantly and periodically receiving any money out of his profession. There are ever so many Advocates finding it difficult to maintain the family with a meagre sum of fees received from their clients or remuneration given by their respective seniors. It is not an universal presumption that all the lawyers are flourishing and minting money. Needless to say that this profession has no certainty of standard income. Therefore, it cannot be said that the brother is earning member of the family with certainty. Even assuming so, the very fact that the brother is living separately after marriage and filing an affidavit stating that he is living separately and is not having any objection for giving employment to the petitioner, would show that the said brother is not taking care of the petitioner's family. Therefore, even assuming that he is earning any money, the same is not helping the petitioner's family for its sustenance. It is further stated that the petitioner is a widow."

4. Thereafter, the petitioner submitted representations based on the orders passed by this Court. Even thereafter, the petition for compassionate appointment has been rejected on the ground that the family is not in indigenous circumstances.

5. The learned counsel for the petitioner would submit that at the time when the earlier order was passed by the respondent, the petitioner did not separate from her husband. Thereafter, her marriage got dissolved by mutual agreement, dated 11.06.2012 and therefore, there is nobody to support the petitioner and therefore, now the petitioner's claim for compassionate appointment should be considered.

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

6. Considering the change in circumstances and also considering the fact that the petitioner is not supported by anybody in the family, the respondents are directed to consider the



claim of the petitioner, in the light of the change in circumstances, within a period of eight weeks from the date of receipt of a copy of this order.

7.The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrare(Writs)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Director of School Education,
Directorate of School Education,
DPI Compound,
College Road, Chennai - 600 006.

2.The District Educational Officer,
Dindigul,
Dindigul District.

+1 cc to AJMAL ASSOCIATES, SR.NO:74058

+1 cc to SPECIAL GOVERNMENT PLEADER, SR.NO:74218

RJ2

SVA/BS/16.02.2017/3P/5C

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