



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2016

C O R A M

THE HONOURABLE Dr. JUSTICE S.VIMALA

Writ Petition (MD) No.17120 of 2016

T.PRASATH

.. Petitioner

Vs

1. THE SECRETARY TO GOVERNMENT,
SOCIAL WELFARE AND NUTRITIOUS MEAL
DEPARTMENT, FORT ST.GEORGE,
CHENNAI - 600 009.
2. THE COMMISSIONER,
DIRECTORATE OF SOCIAL WELFARE,
NAKIREDDY THOTTAM, SIDCO OLD BUILDING,
THRIU VI.KA. INDUSTRIAL AREA, GUINDY,
CHENNAI - 600 032.
3. THE DISTRICT COLLECTOR,
KANYAKUMARI DISTRICT, NAGERCOIL.
4. THE COMMISSIONER,
KURUNTHANCODE PANCHAYAT UNION, KURUNTHANCODE,
KANYAKUMARI DISTRICT.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the Respondents to appoint the Petitioner in any one of the suitable post on compassionate ground within a time stipulated by this Hon'ble Court.

For petitioner ... Mr.G.Ramanathan

For Respondents ... Mr.S.Chandrasekar
Government Advocate

O R D E R

This is a writ of Mandamus directing the Respondents to appoint the Petitioner in any one of the suitable post on compassionate ground within a stipulated time.

2.The petitioner's father had been employed as Noon Meal Organizer at Government Middle School, Kattimancode, Kurunthancode Panchayat Union, Kanyakumari Distirct. He died on 14.08.2005 while in service. The petitioner's family was looked after by the mother by doing household work. At that point of time, the petitioner's sister and the petitioner were minors. In



the year 2007, the petitioner's mother sent an application to the third respondent for an appointment on compassionate ground. The third respondent sent a reply, dated 26.04.2007 stating that after attaining majority, the petitioner may send another application through the fourth respondent. Accordingly, the petitioner sent another application to the fourth respondent on 09.07.2012.

3. On 19.08.2014, the third respondent sent a letter seeking production of relevant documents. The petitioner had submitted all the relevant documents on 01.09.2014 through the fourth respondent. On 04.02.2015, the third respondent sent a communication to the petitioner stating that the petitioner's application had been forwarded to the second respondent for getting relaxation of Rules from the first respondent, because the petitioner was a male member, whereas the rule permit appointment of female member. The third respondent sent a letter to the second respondent, but till date, the first respondent has not taken any further action passing any orders relaxing the Rules. Under such circumstances, this writ of Mandamus has been filed directing the respondents to appoint the petitioner in any one of the suitable post on compassionate ground.

4. The learned Government Advocate for the respondents would submit that as per the policy of the Government, only women members would be appointed for this post and insofar as the present petitioner is concerned, the Government will pass suitable orders relaxing the Rules or the petitioner's claim would be considered by recommending him in any other suitable post, by referring the matter to the Social Welfare Department.

5. The learned counsel for the petitioner relies upon the order of this Court made in W.P.No.24005 of 2014, dated 11.03.2015, under which, the Government has been directed to consider the application for compassionate appointment, even though the petitioner was a male member. The relevant observations leading to such a directions is found in paragraph No.5 of the order, which reads as under:-

"There is no dispute that the father of the petitioner was appointed as Noon Meal Organizer. While in service, he died in harness on 03.02.2002. Admittedly, the petitioner has given an application for compassionate appointment within the cut off period. The application was recommended by the District Collector, by proceedings dated 26.11.2012. The first respondent, before rejecting the request for compassionate appointment, failed to consider the recommendation made by the District Collector in the said proceedings dated 26.11.2012 made a strong recommendation to relax the condition and to appoint the petitioner as Noon Mean



Organizer. It is also a matter of record that the first respondent relaxed the condition in respect of few others and they have also been appointed as Noon Meal Organizers by order dated 18.08.2010. The petitioner is similarly placed and as such, he should also be given the very same indulgence."

6. Under such circumstances, the first respondent is directed to consider the representation of the petitioner in the light of the G.O.No.198, dated 25.10.2007 and also in the light of the order of this Court, dated 11.03.2015, within a period of one month from the date of receipt of a copy of this order.

7. The writ petition is disposed of accordingly. No costs.

Sd/

Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

1. THE SECRETARY TO GOVERNMENT,
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CHENNAI - 600 009.
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KANYAKUMARI DISTRICT.

+1cc to M/S.G.Ramanathan, Advocate in SR.No.51239

+1cc to Special Government Pleader in SR.No.51627

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