BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.06.2016**

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P.(MD)No.13640 of 2011

A.Jothi : Petitioner

Vs.

1.The Joint Commissioner of Income Tax,
Range-I,
Madurai Central Revenue Building,
No.2, Rathinasamy Nadar Road,
Madurai-625 002.

2.The Chief Commissioner of Income Tax,
Cadre Controlling Authority (CCA),
No.122, Mahatma Gandhi Road,
Nungambakkam,
Chennai-600 034.

3.The Chairman,
Central Board of Direct Taxes,
North Block, New Delhi. : Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the second respondent in his Memorandum Letter dated 18.10.2011 and quash the same and direct the respondents to give appointment to the petitioner's son A.Prabhu on compassionate grounds.

For Petitioner : Mr.M.R.Sreenivasan

For Respondents : Mr.M.Saravanan,
For Mr.R.Krishnamurthy

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ORDER

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This Writ Petition is directed against the Memorandum dated 18 October, 2011, whereby and whereunder, the Deputy Commissioner of Income Tax, Chennai, informed the petitioner that her request for compassionate appointment to her son could not be acceded to, on account of the non-fulfillment of essential conditions.

2. The husband of the petitioner, by name Thiru.J.Anthony, was an employee of Income Tax Department. Since he developed psychiatric problem, he could not continue as an employee. The employee, therefore, took, retirement on medical ground. Since there was a scheme to provide employment under compassionate category, the petitioner submitted an application for giving employment to her son. The application was rejected by way of a non-speaking order. Feeling aggrieved, the petitioner has come up with this Writ Petition.

3. The first respondent filed a counter-affidavit, wherein it was admitted that the husband of the petitioner filed an application for retirement on health ground and family circumstances. According to the first respondent, the retirement was nothing but voluntary retirement and as such, the legal representatives are not entitled for compassionate appointment.

4. I have heard the learned counsel for the petitioner and the learned counsel for the respondents.

5. The petitioner submitted an application for compassionate appointment. The application was rejected by way of a very brief order. While rejecting the application, the authority has not indicated any reason much less justifiable reason. It is not sufficient to mention that the case of the petitioner would not come under the scheme. The department should point out the actual reasons for rejecting the application. In fact, an attempt was made by the respondents to improve the case by giving certain particulars in the counter statement. However, the impugned order does not contain any such reasons. The first respondent has clearly admitted in his counter-affidavit that the retirement was on medical ground. This aspect was not considered while rejecting the application. I am, therefore, of the view that the issue requires fresh consideration by the second respondent.

6. In the result, the impugned memorandum dated 18 October, 2011, is set aside. The second respondent is directed to consider the application submitted by the petitioner for compassionate appointment to her son on merits and in accordance with the relevant Scheme. While considering the application, necessarily, the second respondent should also consider the admission given in the counter-affidavit filed by the first respondent to the effect that the retirement was on medical ground. Such exercise shall be completed, within a period of eight weeks from the date of receipt of a copy of this order.

7. The Writ Petition is allowed as indicated above. No costs.

Sd/
Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To
1.The Joint Commissioner of Income Tax,
Range-I, Madurai Central Revenue Building,
No.2, Rathinasamy Nadar Road,
Madurai-625 002.

2.The Chief Commissioner of Income Tax,
Cadre Controlling Authority (CCA),
No.122, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034.

3.The Chairman,
Central Board of Direct Taxes,
North Block, New Delhi.

+1cc to M/s.M.R.Sreenivasan, Advocate in SR.No.32263
+1cc to M/s.R.Krishnamoorthy, Advocate in SR.No.31926

SDR/SK-SKN/29.06.2016/3P/6C

Order made in
W.P.(MD)No.13640 of 2011
Dated: **21.06.2016**