



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.06.2016

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THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

WA(MD)No.94 of 2013

A.Jenny Marx

..Appellant

Vs.

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1.The State of Tamil Nadu,
rep.by its Principal Secretary to Government,
Social Welfare and Nutritious Meal
Programme Department,
Secretariat,
Chennai - 600 009.

2.The Commissioner,
Commissionerate of Rural Development
and Panchayat Raj,
Panagal Building, 4th and 5th floors,
Jeenis Road, Saidapet,
Chennai - 600 015.

3.The District Collector,
Collectorate,
Madurai Road,
Theni - 625 531.

4.The Personnel Assistant to District Collector
(Noon Meals)
Theni District, Theni.

.. Respondents

Writ Appeal is filed under clause 15 of Letters Patent
against the order dated 18.09.2012 passed in WP(MD)No.11275 of
2012 by this Court.

Prayer in WP(MD). 11275/ 2012 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying for the issuance of CERTIORARI
MANDAMUS, to call for the records of the impugned order issued by
the fourth Respondent in his proceeding in Na.Ka.No.977/
<https://hccs.ecourts.gov.in/services/>



2012/Vu.Va.12, dated 02-03-2012 and quash the same and further direct the Respondents to appoint the Petitioner on Compassionate Ground in any one of the suitable post either as a Junior Assistant or as a Secondary Grade Teacher or as a Noon Meal Organizer under the Respondents applying the G.O.Ms.No.96 Labour and Employment Department, dated 18-06-2012.

For Appellant : Mr.A.Thirumurthy

For Respondents : Mr.A.K.Baskarapandian
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered
by **NOOTY.RAMAMOHANA RAO, J.**)

This Appeal is directed against the order passed in WP (MD)No.11275 of 2012, dismissing the Writ Petition, which is instituted, challenging the correctness and validity of the order passed on 02.03.2012, rejecting the claim of the writ petitioner for appointment on compassionate grounds.

2.The facts are not in dispute that the principal of the petitioner/appellant herein died somewhere in the year 1998 while working as an Organizer in Nutrition Meal Centre, attached to the Government Kallar School at Vellaiyammalpuram, Theni District.

3.We are not so much concerned with regard to the controversy as to whether the writ petitioner is liable to be treated as to have been validly adopted by her principal for deciding the present controversy. The fact remains as assorted and we proceed on that premise that the writ petitioner was adopted by the said employee. As was noticed, the principal of the petitioner has died somewhere in the year 1998 and ultimately the State Government rejected the claim of the writ petitioner for appointment on compassionate ground only on 02.03.2012 and that was the subject matter of the writ petition as was noticed supra.

4.It is a settled principle of law that making appointment on compassionate ground is considered to be a kind of exception to the normal and general principle of throwing open all vacancies of public employment for recruitment by inviting applications from the most eligible and suitable candidates. As an exception to the said normal rule, certain appointments are made on compassionate ground to provide for immediate succor to the family which has been reduced to near penury conditions in view of the premature death of the bread winner. But however, if such a family is able to survive and more than a decades time passes by, no member of such a family can legitimately claim appointment on



compassionate ground as a matter of right. Therefore, we do not see any justifiability behind the claim of the writ petitioner and accordingly, we dismiss the Writ Appeal. No costs. Consequently, MP(MD)No.1 of 2013 is closed.

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/True copy/

Sd/-
Assistant Registrar(AE)

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu,
Social Welfare and Nutritious Meal
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Secretariat,
Chennai - 600 009.
- 2.The Commissioner,
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and Panchayat Raj,
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Theni - 625 531.
- 4.The Personnel Assistant to District Collector
(Noon Meals)
Theni District, Theni.

+1cc to M/s.A.Thirumurthy, Advocate SR.No.28342/16
+1cc to special Government Pleader SR.No.28754/16

SH:DB:16.06.2016:3P/7C

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07.06.2016