



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.1539 of 2013

A.M.Muthulakshmi

.. Petitioner

-vs-

1.The Director General of Police,
Beach Road,
Chennai - 600 004.

2.The Superintendent of Police,
Madurai, Madurai District

.. Respondent WP

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus seeking a direction to the respondents to consider the claim of the petitioner for appointment on compassionate ground based on the petitioner's representation dated 16.10.2012 and to give appointment to the petitioner in any suitable post commensurating with the qualification with all consequential benefits.

For Petitioner : Mr.R.Rajamohan

For Respondents : Mr.S.Kumar
Additional Government Pleader

ORDER

This Writ petition has been filed for the issuance of a Writ of Mandamus, directing the respondents to consider the claim of the petitioner for appointment on compassionate ground, based on her representation dated 16.10.2012.

2.The father of the petitioner has served as a Head Constable under the second respondent and he died in harness due to cardiac-arrest on 25.01.2008. At the time of his death, the petitioner has completed only 10th standard. However, the mother of the petitioner has made an application to the respondents on 27.03.2008, seeking appointment to the petitioner on compassionate ground.

<https://hcservices.ecourts.gov.in/hcservices/> By order dated 01.08.2012, the Superintendent of Police, Madurai District has rejected the application on the



ground that the petitioner did not complete the age of 18 on the date of application. Aggrieved against the said order, the petitioner has made a representation dated 16.10.2012 to the respondents, but, till filing of the present Petition, it has not been considered.

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4. In support of the order passed by the second respondent, Government clarification in letter (Ms).No.86, Labour and Employment (Q1) Department dated 04.05.2010 is relied upon, in which, it is stated that the persons seeking compassionate appointment, should have completed the age of 18.

5. Needless to point out that this Government Order is on the point of eligibility of the petitioner to make herself fit for any employment at the time of application. Here, the subject matter of discussion is on the following grounds:

(i) Whether the rejection order passed by the second respondent on the ground that the petitioner has not completed 18 years is justified? Or,

(ii) Following the decision reported in **AIR 2008 SC 39 [Mohan Mahto vs. Central Coal Field Ltd., and others]**, the petitioner should be given employment after completion of 18 years?

6. The learned counsel appearing for the petitioner has relied upon a decision of the Hon'ble Supreme Court reported in **(2010) 7 MLJ 644 [M.Uma Vs. Chief Engineer (Personnel) Tamil Nadu Electricity Board, Chennai]**, wherein it is held that "an application for appointment on compassionate ground is not to be rejected on the ground that it was filed after a lapse of time and the application is to be considered on its own merits."

7. But, in this case, the petitioner has not attained 18 years at the time of application and the claim ought to have kept on live roaster till she attains majority as per the decision reported in **AIR 2008 SC 39 [Mohan Mahto vs. Central Coal Field Ltd., and others]**, in which it has been held that "if a person seeking appointment on compassionate ground was minor at the time of filing application, the name of the person will be kept on live roaster till he attains majority." This procedure ought to have been followed by the respondents herein.

8. Under the said circumstances, the respondents are directed to consider the representation of the petitioner dated 16.10.2012 and to grant appointment in any suitable post, commensurate with the qualification and eligibility of the petitioner within a period of eight weeks from the date of receipt of a copy of this order.



9.The writ petition is ordered accordingly. No costs.

Sd/-
Assistant Registrar(CO)

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/True Copy/

Sub Assistant Registrar

To

1.The Director General of Police,
Beach Road,
Chennai - 600 004.

2.The Superintendent of Police,
Madurai, Madurai District

+1 cc to Special Government Pleader SR.NO.56999

+1 cc to M/S.R.RAJAMOHAN, Advocate SR.No.56712

W.P(MD) No.1539 of 2013

28.09.2016

SMA/CK/15.11.2016:3P/5C