IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.1449 of 2017
and
C.M.P.No.19435 of 2017

1. The Commissioner of Commercial Taxes,
   Chepauk, Chennai 600 005.

2. The Joint Commissioner of Commercial Taxes,
   Tiruchirappalli Division, Tiruchirappall

.... Appellants/Respondent

Versus

Selvi V.Chezhumathi ..... Respondent/Petitioner

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 9.3.2015 passed in W.P.No.32740 of 2013 on the file of this court.

WP.NO.32740/13:

Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus Calling for the records pertaining to the order passed by the 2nd Respondent in his Proceedings Na.Ka.No. 9234/ 2012 / Aa2 dated 24.09.2013 and quash the same and direct the Respondents to appoint the petitioner as Junior Assistant on compassionate ground and confer all the consequential benefits.

For appellants : Mrs.Narmatha Sampath, Special Government Pleader

For respondent : Mr.P.Ganesan for M/s.C.S.Associates

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the submissions of the learned counsel appearing for the appellants and Mr.P.Ganesan, learned counsel who takes notice on behalf of the respondent.

2. The writ appeal is filed challenging the order passed by the learned Single Judge directing the appellants to consider the representation made by the respondent herein for appointment on compassionate ground on the death of her father, who worked as Assistant in the office of the Commercial Tax Officer Nannilam.

3. It appears that the said Government employee died in harness on 1.7.2010 and the representation seeking appointment on compassionate ground was made on 17.6.2012, but, at that time, she was only a minor, however, she had attained the age of majority when the representation was rejected. Therefore, it is needless to say that the representation had been technically rejected. This aspect has been not properly appreciated by the learned Single Judge and hence, we do find reason to interfere with the order passed by the learned Single Judge.

4. At this juncture, it is submitted by the learned Special Government Pleader that at the time when the representation was rejected, there was no vacancy to give appointment to the respondent herein.

5. Be that as it may, the rejection of the representation at the relevant point of time is not proper and therefore, now it is for the appellants to re-consider the same and do the needful in accordance with law, within a period of three months from the date of receipt of a copy of this judgment, after verifying with regard to indigence and other relevant factors for granting appointment on compassionate grounds. The writ appeal is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

ssk.

To:

1. The Commissioner of Commercial Taxes,
   Chepauk, Chennai 600 005.

2. The Joint Commissioner of Commercial Taxes,
   Tiruchirappalli Division, Tiruchirappalli.

+ 1 cc to M/s.C.S.Associates Advocate,SR.82795
+ 1 cc to The Special Govt.Pleader, SR.83107

W.A.No.1449 of 2017

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nr 27/12/2017