

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2017

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.20796 of 2017

S.Subashini

... Petitioner

Vs.

1.The Director,
Social Welfare Department,
No.58/70, Arunachalam Street,
Chinthadripet, Chennai-600 002.

2.The District Collector,
Tuticorin, Tuticorin District.

3.The Commissioner,
Kayathar Panchayat Union,
Kayathar, Tuticorin District.

...Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a writ of Mandamus, directing the respondents herein to the 1st respondent herein to appoint to the post of in Grade C instead of Group D according to her educational qualification based on the representation dated 10.04.2014.

For Petitioner : Mr.Devaraj Mahesh

For Respondents : Mr.K.Dhananjayan
Special Government Pleader for R1 and R2.
Mr.R.Govindasamy
Special Government Pleader for R3.

ORDER

The relief sought for in this writ petition is for a direction to direct the 1st respondent to appoint the petitioner to the post of Group 'C' instead of Group 'D' according to the educational qualification acquired by the writ petitioner. The mother of the writ petitioner died on 08.07.2009 while she was serving as Noon Meal Organiser in Thayammal Memorial Elementary School, Kumarareddyapuram. On the demise of the mother of the writ petitioner, the family was in indigent circumstances and an application was made by the writ petitioner seeking appointment on Compassionate Ground. The writ petitioner attended the interview on 24.01.2011 and the Competent Authorities considered the case of the writ petitioner and appointed her as Noon Meal Organiser in Kayathar Primary School in proceedings dated 11.07.2017. Pursuant to the order of appointment, the writ petitioner joined the post and now working in the said post.

2. Under these circumstances, the writ petitioner again made a representation stating that she had completed M.Com, M.Phil and B.Ed and therefore, she should be accommodated in Group 'C' post instead of Group 'D' post. Such an attitude of the writ petitioner, in going on claiming Compassionate Appointment repeatedly one after another cannot be

entertained by the authorities. The appointment on Compassionate Ground is a scheme and it is not a regular recruitment process. On the demise of the Government Servants, considering the indigent circumstances of the family, appointment under compassionate ground is provided on the terms and the condition stipulated under the scheme.

3. Appointment on Compassionate ground can never be claimed as a matter of right and it is to be granted on terms and conditions stipulated under the scheme. As regards the case of the writ petitioner, the Competent Authority considered her case and appointed her on Compassionate Ground. It is left open to the writ petitioner to accept the offer of appointment or reject the same, but she cannot ask for other higher post at her choice. The scheme itself is to mitigate the indigent circumstances of the family, in the event of sudden demise of the Government servants. Such being the object of the scheme, the particular post or cadre can never be sought as a matter of right.

4. The writ petitioner has been issued with an order of appointment on 11.07.2017 and it is for her to accept or to reject the same. But her claim for higher post cannot be considered under the

Compassionate Scheme and the particular cadre or post has to be filled up in accordance with the recruitment rules. The writ petitioner having acquired the qualification of M.Com, M.Phil, B.Ed has to participate in the recruitment process by competing with all other qualified persons and in the event of selection, she can be appointed against the post for which she applied for. Contrarily, she cannot seek appointment on Compassionate Ground to a higher post, depriving all other potential candidates, who are longing for appointment in public service. Thus, the very relief sought for in this writ petition at the outset is to be rejected. This Court is not inclined to consider the claim set out in this writ petition. This Court wishes the writ petitioner for a bright future and she may appear and compete with other candidates in the open regular recruitment process.

5. Accordingly, the writ petition stands dismissed. No costs.

सत्यमेव जयते

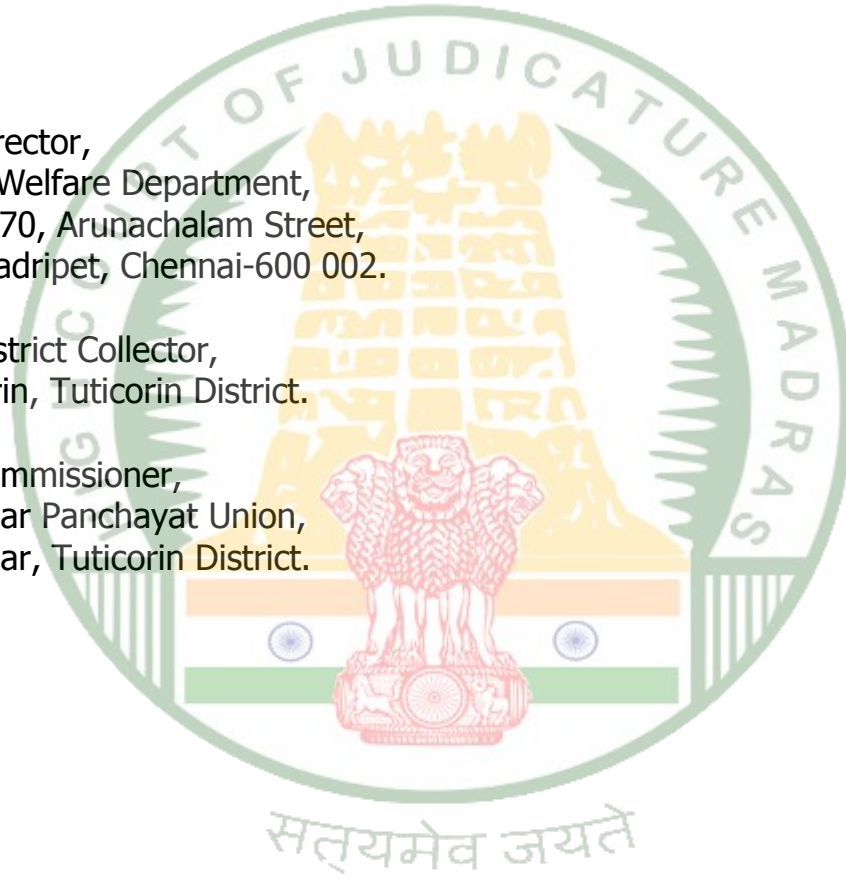
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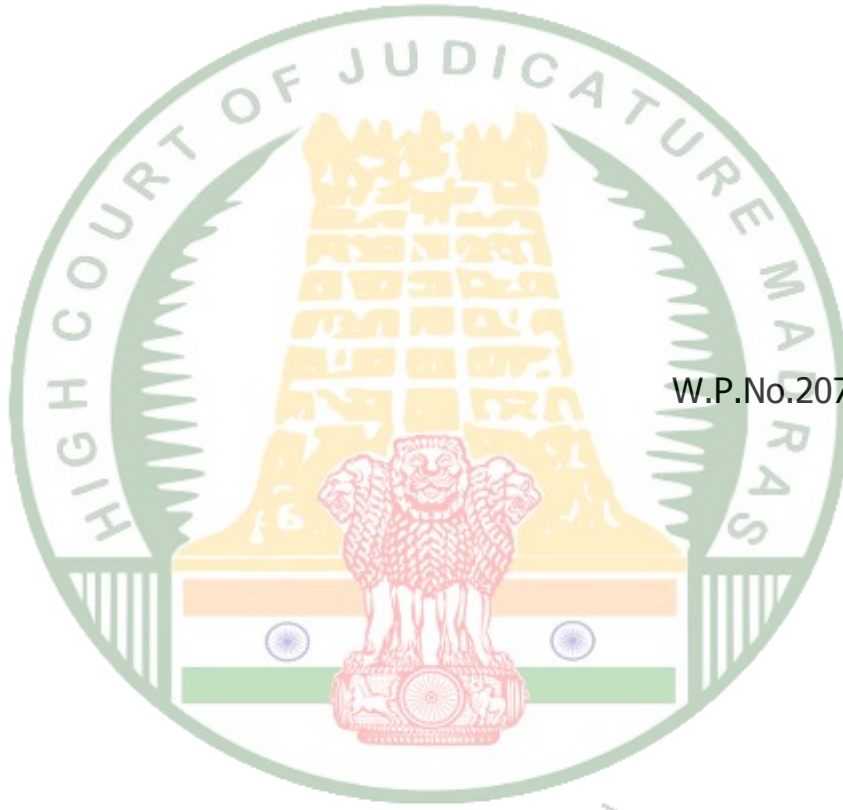
To

- 1.The Director,
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S.M.SUBRAMANIAM.,J
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