

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.25243 of 2014

Anbuselvi

.. Petitioner

vs.

The Assistant Divisional Engineer,
National Highways,
Thiruthuraipoondi,
Tiruvarur District.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to consider and appoint the petitioner on compassionate ground in any one of the suitable post.

For Petitioner : Mr.K.Balakrishnan

For Respondent : Mr.K.Dhananjayan,
Special Government Pleader

O R D E R

The petitioner would aver that she is the daughter of late A.Ganesan, who was working as an employee in the services of National Highways Department and he died in harness on 02.01.1999, leaving behind him, his wife and two children. The sister of the petitioner, namely Jothi had applied for appointment on compassionate ground on account of the demise of her father, vide application dated 19.12.2001 by enclosing the No Objection Certificate given by the petitioner as well as her mother and pending consideration of the said application, she died on 26.11.2002. Subsequently, the petitioner, in the form of representations dated 12.04.2000 and 17.08.2011 had requested the respondent to provide compassionate ground appointment to her, as her family is in indigent circumstance and they are finding it extremely difficult to make both ends meet. Since the representations submitted by her did not evoke any kind of response, she came forward to file this writ petition.

2. Mr.K.Balakrishnan, learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and additional typed set of documents as well as the counter affidavit of the respondent and would submit that though the representations submitted by the petitioner failed to evoke any kind of response, the contents of the counter

affidavit would disclose that the representations/application of the petitioner seeking appointment on compassionate ground may not be considered, as she has already got married prior to the demise of her father and would further submit that in the light of the ratio laid down by this Court in the decisions in G.Girija v. Assistant Director (Panchayats), Kancheepuram and Others [(2008) 6 MLJ 774] and B.Saranya v. The Director of Public Libraries and Another [2015 Writ L.R. 864] the said stand of the respondent in the counter affidavit is wholly untenable and prays for appropriate orders.

3. Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondent would contend that admittedly, the sister of the petitioner submitted the application seeking appointment on compassionate ground within the time and pending consideration of the same, she died and in her place, the petitioner had submitted application and since she got married before the demise of her father, her claim cannot be considered and prays for dismissal of this writ petition.

4. This Court has considered the rival submissions and also perused the entire materials placed before it.

5.This Court, in the above cited judgment in B.Saranya v. The Director of Public Libraries and another [2015 Writ L.R. 864], after referring to the judgments in G.Girija v. The Assistant Director (Panchayats), Kancheepuram District [2008 (5) CTC 686] and Krishnaveni v. Superintending Engineer, Kadamparai Electricity Generation Block, Coimbatore District [2013 (8) MLJ 684], has held that marriage of the applicant cannot be a bar to consider the request for appointment on compassionate ground. In the light of the settled position of law, the stand of the respondent in the counter affidavit is untenable.

6. In the result, this Writ Petition is disposed of and the respondent is directed to consider the claim of the petitioner seeking appointment on compassionate ground on merits and in accordance with law and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

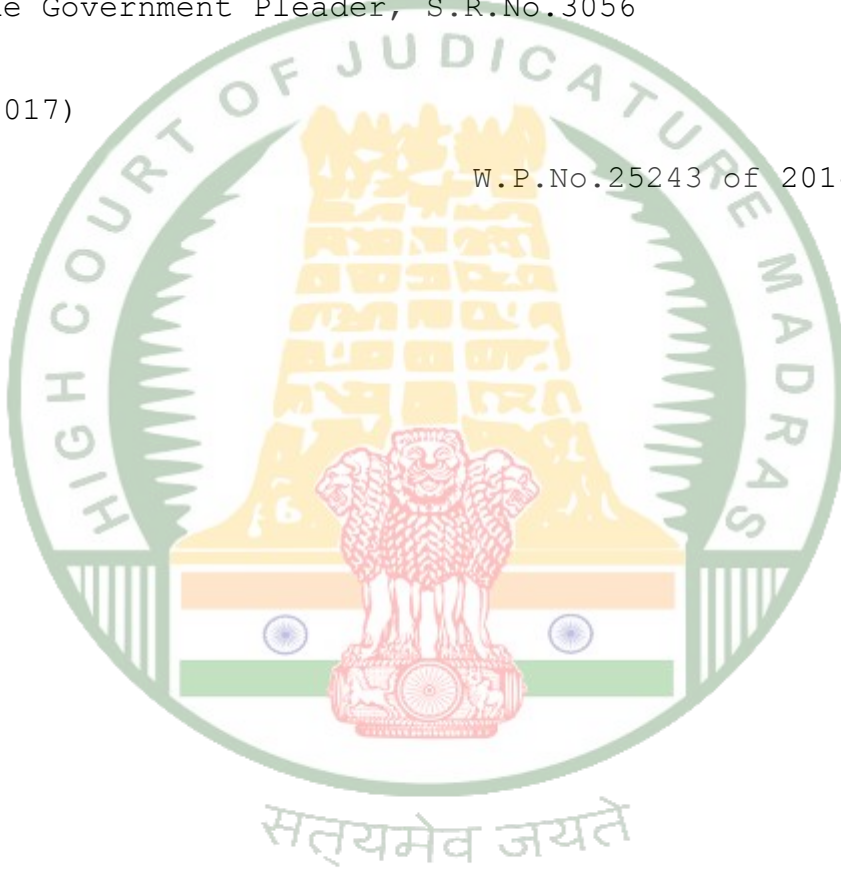
jvm

To
The Assistant Divisional Engineer,
National Highways,
Thiruthuraipoondi,
Tiruvarur District.

+lcc to Mr.K. Balakrishnan, Advocate, S.R.No.2900
+lcc to the Government Pleader, S.R.No.3056

rsy(CO)
md(23/01/2017)

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