

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.11.2017

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

W.P.No.12375 of 2012

B.Vijaya

..Petitioner

vs

1.The Member Secretary,
Sports Development Authority
Of Tamil Nadu,
No.116-A, Periyar E.V.R.High Road,
Nehru Park, Chennai - 600 084.

2.The Superendtant,
Sports Development Authority
Of Tamil Nadu,
No.116-A, Periyar E.V.R.High Road,
Nehru Park, Chennai - 600 084.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus,
directing the Respondents to consider the representation for
appointment compassionate ground.

For Petitioner : M/s.B.Vijaya (Party-in-Person)
For Respondents : Mr.I.Sathish

सत्यमेव जयते
O R D E R

The relief sought for in this writ petition is for a
direction to the respondents to consider the representation for
appointment on compassionate grounds.

2.The writ petitioner appearing as party-in-person is able
to articulate her case in vernacular language effectively.
While appreciating the manner in which the writ petitioner has
articulated her case, this Court is of the opinion that no legal
rights as such has been established by the petitioner so as to
provide any relief as such sought for. The husband of the writ
petitioner Late.Balasubramaniam was employed under the Control
of the Sports Development Authority of Tamil Nadu as Basket Ball

Coach and he passed away on 15.09.2006, while he was on duty. The writ petitioner states that she is receiving family pension as of now and soon after the death of her husband, she made an application to the respondents seeking appointment on compassionate grounds on 21.11.2006. However, the respondents appointed her on temporary basis in Tennis Stadium at Nungambakkam and the writ petitioner continued as temporary employee for about four years. However, the temporary services of the writ petitioner had been dispensed with on account of her age.

3.The learned counsel appearing for the respondents states that the writ petitioner was continuously absent from attending duties with effect from 23.06.2011. The learned counsel further states that the writ petitioner had not attended duty without any intimation to the authorities concerned. Thus, her services were dispensed with and thereafter, she was not engaged. The writ petitioner opposed the contentions by stating that she was regularly attending the duty and the respondents have forcibly and orally terminated her services.

4.May that it be, this Court is of the view that the writ petitioner is now aged about 61 years and at this stage, this Court cannot issue any direction to appoint the writ petitioner in any one of the vacancies by engaging the writ petitioner on temporary basis and it is left open to the respondents to engage her, if she is otherwise fit enough to continue the job in respect of temporary engagement. It is the prerogative power of the respondents to engage the employees on contract or temporary basis in accordance with the rules in force. The writ petitioner informed this Court that she has got one mentally retarded son. Thus, the respondents may take a lenient view in respect of engaging the writ petitioner on temporary basis so long as she is able to perform her duties and responsibilities to the satisfaction of the authorities.

5.In respect of compassionate appointment, this Court cannot issue any direction for permanent or regular appointment in accordance with the procedures contemplated in the rules. Compassionate appointment being a scheme and the writ petitioner having been given an opportunity to serve on temporary basis for about 4 years up to the age of 56 years, now, this Court cannot issue any direction for permanent absorption in regular vacancy in view of the fact that the writ petitioner has already attained the age of 61 years. Appointment on compassionate ground is a concession and can never be claimed as a matter of right. Being a concession, it is for the authorities to ascertain the family circumstances and the other relevant factors in order to extend the benefit of the scheme of appointment. No doubt, the writ petitioner is receiving a

pension and therefore, now this Court is not inclined to issue any direction for permanent absorption, more specifically, when the writ petitioner has attained the age of 61 years. However, it is left open to the authorities to consider the case of the writ petitioner for engaging her on temporary basis so long as she is able to perform her duties to the satisfaction of the superiors.

6. With these observations, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Member Secretary,
Sports Development Authority
Of Tamil Nadu,
No.116-A, Periyar E.V.R.High Road,
Nehru Park, Chennai - 600 084.

2. The Superendatant,
Sports Development Authority
Of Tamil Nadu,
No.116-A, Periyar E.V.R.High Road,
Nehru Park, Chennai - 600 084.

+1cc to Mr.L.Sathish, Advocate, S.R.No.83318

+2cc to Mr.B.Vijaya, Advocate, S.R.No.83759

W.P.No.12375 of 2012

MR(CO)

GN(24/11/2017)

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