



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.12.2017

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE **V.BHAVANI SUBBAROYAN**

W.P (MD) No.13494 of 2014

and

M.P (MD) Nos.1 & 2 of 2014

S.Subhashini

... Petitioner

Vs.

1. The Director of Social Welfare Department,
No.58/17, Arunachala Street,
Chintadripet, Chennai-2.

2. The District Collector,
Tuticorin District, Tuticorin.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the third respondent in his proceedings A-4/3151/2012, dated 15.04.2014 and quash the same and consequently directing the respondents to appoint the petitioner on compassionate ground in the equivalent post by taking consideration of the petitioner's educational qualification and issue appointment order as early as possible.

For Petitioner : Mr.C.Prakasam

For 1 & 2 Respondent : Mr.S.Kumar
Additional Government Pleader

For 3rd Respondent : Mr.S.Sathesh Kumar
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings of the third respondent in A-4/3151/2012, dated 15.04.2014 and seeking a direction to the respondents to appoint



the petitioner on compassionate ground in the equivalent post by taking consideration of the petitioner's educational qualification and issue appointment order.

2. The learned counsel for the petitioner would submit that the petitioner's mother was alive and she was working as Noon Meal Organizer at Thayammal Memorial Elementary School, Kumareddiyapuram Village, Vanaramutti Post, Kovilpatti Taluk, Tuticorin District. Further, he submits that while the petitioner's mother was in service, she died on 08.07.2009, due to her ill-health and the petitioner being the only daughter and only legal heir.

3. Further, the learned counsel for the petitioner submits that the petitioner approached the respondents and made a request to appoint her on compassionate ground. Thereafter, the third respondent has called for the petitioner to appear for interview held on 24.01.2011. Accordingly, she has participated in the said interview and has produced educational certificates and the same was verified by the third respondent and thereafter informed to the petitioner that they will issue appointment order on compassionate ground to the petitioner. But the third respondent did not send any appointment order to the petitioner. In the meantime, the petitioner's father also died on 15.08.2010 and she had obtained the father's death certificate, legal heir certificate also issued by the Tahsildar, Kovilpatti, with regard to necessary certificates for getting compassionate appointment. After obtaining the said certificates from the Tahsildar, Kovilpatti, she has approached the first and second respondent and made a request to appoint her on compassionate ground in the place of her mother's post. The first respondent had sent communication to the second respondent and called for the reports with regard to appointment, but the second respondent had sent communication to the first respondent in his proceedings No.V9/38428/2012, dated 25.02.2013 that since she is a married woman and she is not eligible to get appointment on compassionate ground by relaxing the rules for appointment as Noon Meal Organizer. After the said communication was sent by the second respondent to the first respondent, the first respondent has not passed any orders to permit the third respondent to appoint the petitioner in the compassionate appointment. Since her educational qualification in M.A., M.Com., M.Phil., B.Ed., and Diploma in Computer, the third respondent communicated in his proceedings A-4/3151/2012, dated 15.04.2014, stating that the first respondent did not consider her case regarding relaxation of orders and also the third respondent had refused to appoint her in the said post stating her educational qualification.

4. The learned Additional Government Pleader appearing for the third respondent submitted that even though the petitioner has sent application to the respondent for appointment under



compassionate grounds belatedly after a period of three years on 27.09.2012 and unmarried women legal heirs alone are eligible for appointment on compassionate grounds within three years from the date of death of the Government servant as per G.O.Ms.No.165, Labour and Employment (Q2) Department, dated 30.08.2010. The petitioner has also sent application to open interview on 24.01.2011 and attended interview on 24.01.2011 and Educational Certificate was verified by the committee, but she was not selected in the said interview. The petitioner was married before the petitioner's mother's death. Hence, only on the sympathy ground due to poverty of the family, the above proposal have been recommended to the first respondent for relaxation of orders vide Letter No.v9/38428/2012, dated 25.03.2013, but it is still pending with the Government for suitable orders. He would also further submit that noon-meal employees are not a Government Servant and they are only part time permanent Government Employees. The Government Rules and Orders do not permit to appoint in some other post much less than noon-meal organiser under Compassionate grounds, if the rules were relaxed. The petitioner has not applied within the period of three years from the date of death of the noon-meal employee and also not eligible for the higher post than of organiser on the basis of educational qualification. The petitioner is not eligible under compassionate ground after three years of the application and she is not eligible for claiming higher post of the deceased (noon-meal employee) and if the relaxation is received from the first respondent, the application of the petitioner will be considered. As per G.O.Ms.No.214, Social Welfare Department, dated 24.03.1992, the District Collector is the only appointing authority for the post of noon-meal organiser.

5.The impugned order would suggest that if the compassionate ground can be considered only to the post of Noon Meal Organizer and not as per her educational qualification.

6.The learned counsel for the petitioner would submit that the petitioner would be satisfied, if an order is passed for appoint her for the post of Noon Meal Organizer, even though she is highly qualified.

7.In view of the above, this Court directs the respondents to consider the case of the petitioner and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

8.With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AE)

/True Copy/



To

1. The Director of Social Welfare Department,
No.58/17, Arunachala Street,
Chintadripet,
Chennai-2.

2. The District Collector,
Tuticorin District,
Tuticorin.

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

+ 1 cc TO Mr.C.Prakasam , Advocate in SR No. 92395

+ 1 cc TO The Special Government Pleader in SR No. 92494

SSS

AE/KKR/SAR2/09.01.2018/4P/6C

ORDER MADE IN
W.P(MD)No.13494 of 2014
and
MP(MD)Nos.1 & 2 of 2014
12.12.2017