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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. (MD) No.216 of 2017

R.Veeralakshmi

.... Appellant

Vs.

1. The District Collector,
Collectorate, Virudhunagar District.

2. The Block Development Officer,
Kariapatti Panchayat Union,
Kariapatti,
Virudhunagar District.

.... Respondents

PRAYER: Writ Appeal is filed under clause 15 of the Letters Patent, against the order passed by the learned Single Judge of this Court made in W.P.(MD).No.15054 of 2013, dated 12.09.2013.

Prayer in WP(MD). 15054/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in his proceedings in Na.Ka.P3/2890/2013 dated 21/08/2013 and quash the same as illegal, violation of principles of law and further direct the respondents to provide employment to the petitioner under compassionate grounds within the stipulated period.

For Appellant

: Mr.T.Lajapathi Roy

For Respondents

: Mr.T.S.Mohammed Mohideen

Additional Government Pleader

JUDGMENT

[Judgment of the Court was made by G.R.SWAMINATHAN, J.]

This intra Court appeal has been filed by the unsuccessful writ petitioner.

2.The writ petitioner's husband Ramaraj was working as an Accountant/Cashier in the Panchayat Union Office, Kariapatti Panchayat Union, Virudhunagar District. He passed away on 24 August, 1993 leaving behind the writ petitioner who was a young women of 18 years of age then. Following her husband's demise, the writ petitioner submitted representations to the Block Development Officer, Kariapatti Panchayat Union to provide her



employment on compassionate grounds. According to the writ petitioner, she made the application within three years from the date of death of her husband. The writ petitioner was approaching the authorities regularly in this regard.

3. The writ petitioner submitted one more representation dated 30 May, 2013. Since there was no response, she filed W.P.(MD). No.11050 of 2013. The said writ petition was allowed by the learned single Judge, by order dated 11 July, 2013. In paragraph No.10 of the said order, a specific finding was given by the learned single Judge to the effect that the writ petitioner herein had substantiated her submission of the application seeking employment assistance on 21 November, 1994. The direction was given to the District Collector, Virudhunagar to consider the writ petitioner's application and pass orders, providing her suitable employment, if she was found eligible. Pursuant to the said order passed by the learned Judge, the first respondent herein passed the order dated 21 August, 2013 rejecting the writ petitioner's request. The ground of rejection was that the application seeking employment assistance on compassionate grounds was not made within three years from the demise of her husband.

4. Aggrieved by the rejection of her request, the writ petitioner filed W.P(MD).No.15054 of 2013. The said writ petition was dismissed by order dated 12 September, 2013 on the ground that more than 20 years have gone by since the death of the writ petitioner's husband. The learned single Judge also noted that the first respondent had come to the conclusion that the writ petitioner is not in indigent circumstances. The learned single Judge also referred to the well settled principle that compassionate ground appointment cannot be treated as a reservation for employment or one more source or recruitment. Aggrieved by the dismissal of the writ petition, the present writ appeal has been filed.

5. We have heard the learned counsel appearing for the appellant as well as the respondents.

6. We have carefully gone through the materials on record. We hold that when WP(MD).No.11050 of 2013 was allowed, after giving a finding that the writ petitioner had substantiated the submission of her application on 21 November, 1994, it is not open to the first respondent herein to come to a contrary finding that the writ petitioner failed to submit application seeking employment on compassionate grounds within three years from the date of demise of her husband. The respondents herein did not file any writ appeal questioning the finding rendered in the order dated 11 July, 2013 in W.P(MD).No.11050 of 2013.

7. The writ petitioner has enclosed in the typed set of papers the certificate issued by the Tahsildar certifying that the writ



petitioner continues to be in indigent circumstances. The writ petitioner has not remarried and continues to remain a widow. Merely because her husband passed away in the year 1993 and the writ petitioner has managed to survive all these years, it would not mean that her financial and economical condition has improved.

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8. In view of the certificate issued by the Tahsildar, we have to hold that she continues to remain in indigent circumstances. Therefore, we have to necessarily set aside the order dated 21 August 2013 passed by the first respondent herein. We are constrained to observe that the order dated 21 August 2013 passed by the first respondent has not really taken note of the order dated 11 July, 2013 made in W.P(MD).No.11050 of 2013. The learned Judge was not right in dismissing in W.P(MD).No.15054 of 2013, for the reasons set out above. We set aside the order dated 12 September, 2013 made in W.P(MD).No.15054 of 2013 and also quash the the order bearing Na.Ka.No.P3/2890/2013 dated 21 August 2013 passed by the first respondent and allow this writ appeal.

9. The matter is remitted to the file of the first respondent for passing fresh orders in accordance with law. While so considering, it will not open to the first respondent to invoke any of the grounds of rejection set out in the order dated 21 August 2013 impugned in these proceedings. The first respondent shall take note of the materials available on record and if the petitioner is found eligible, grant her appointment to any one of the post based on her educational qualification.

10. This writ appeal is allowed as indicated above. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. The District Collector,
Collectorate, Virudhunagar District.
2. The Block Development Officer,
Kariapatti Panchayat Union,
Kariapatti, Virudhunagar District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate, SR No. 63897.

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 64029.

ARUL

PSM/MR-KKR/SAR1/20.07.2017/3P/5C