

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 01.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN**AND****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****W.A. (MD) .No.546 of 2017**

S.Sumathi

... Appellant/Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep.by its Secretary,
Department of Social Welfare
and Noon Meal,
Fort. St. George, Secretariat,
Chennai - 600 009.
2. The Commissioner,
Thiruchuli Village Panchayat,
Virudhunagar District.
3. The District Collector,
Virudhunagar District,
Virudhunagar.
4. The Block Development Officer,
Thiruchuli,
Virudhunagar District.
5. The Tahsildar,
Aruppukottai Taluk,
Virudhunagar District.

... Respondents/Respondents

PRAYER:Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order passed in WP(MD)No.1544 of 2014, dated 17.06.2016 on the file of this Court and thereby allow this appeal.

Prayer in WP(MD) . 1544/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Order passed by the 4th respondent in Na.Ka.A4/2803/2013 dated 17.10.2013 quash the same and consequently direct the respondents to give appointment to the petitioner on compassionate grounds.



For Appellant
For Respondents

: Mrs.Jessi Jeeva Priya
: Mr.T.S.Md.Mohideen, AGP

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J U D G M E N T

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

The unsuccessful writ petitioner is on appeal questioning the order dated 17.06.2016 made in WP(MD)No.1544 of 2014.

2.The issue relates to compassionate appointment. It is not in dispute that the writ petitioner's father passed away on 12.12.1992, while serving as Noon Meal Organizer in Panchayat Union School at Vaagaikulam. Even though the counsel for the appellant would contended that an application was submitted within time by her mother, there is absolutely no material on record to substantiate the same. The said claim that an application was filed within time remains a mere ipse dixit of the appellant. The fact is that an application was lodged only on 30.09.2013 by the writ petitioner and that the same came to be rejected on 17.10.2013. It is true that in the order of rejection, it has been mentioned that there was no scheme providing for compassionate appointment when the appellant's father died.

3.The learned counsel appearing for the appellant would point out that a scheme for compassionate appointment applicable to Noon Meal Scheme Organizer was introduced on 06.11.1992 and that since the appellant's father passed away on 12.12.1992, the benefit of the scheme ought to have been applied in the case of the writ petitioner and that the authority was in error in taking the stand that there was no scheme of compassionate appointment in year 1992.

4.No doubt, this contention raised by the counsel for the appellant appears to be having some force. But, we are not inclined to interfere with the order passed by the learned Single Judge dismissing the writ petition for more reasons than one. There is admittedly a gap of 22 years between the death of the appellant's father and the filing of WP(MD)No.1544 of 2014. The gap is too long and cannot be bridged. Secondly, there is nothing on record to show that an application for compassionate appointment was filed within three years from the date of death of the appellant's father. Even though the appellant attained majority in the year 2007, she did not file the application within three years of attaining majority. In any event, it has already been held that vacancies cannot be allowed to remain unfilled waiting for the applicant to attain majority.



5.The learned Judge was right in dismissing the writ petition. There is no merit in this writ appeal. It stands dismissed. No costs. Consequently, connected miscellaneous petition also dismissed.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary, Department of Social Welfare and Noon Meal,
Fort. St. George, Secretariat, Chennai - 600 009.
2. The Commissioner, Thiruchuli Village Panchayat,
Virudhunagar District.
3. The District Collector, Virudhunagar District,
Virudhunagar.
- 4.The Block Development Officer, Thiruchuli,
Virudhunagar District.
- 5.The Tahsildar, Aruppukottai Taluk,
Virudhunagar District.

+1cc to M/S. T.S.MOHAMED MOHIDEEN, Advocate, SR.No.69449.
+1cc to Special Government Pleader, SR.No.70229.

W.A. (MD) .No.546 of 2017
01.08.2017

Skm / Arul
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