



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD)No.1047 of 2016
and
C.M.P(MD).No.671 of 2017

Vasantharani ... appellant

vs.

The District Educational Officer,
Karur, Karur District. ... Respondent

Prayer : Writ appeal is filed under Clause 15 of the Letters Patent to set aside the order made in WP(MD).No.3639 of 2016 dated 25.02.2016 as also the order of the respondent and allow the writ petition as prayed for and direct the respondent to give compassionate appointment to the appellant suitable to her qualification.

Prayer in WP(MD). 3639/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus by calling for the records relating to the proceedings of Respondent made in Na.Ka.No.2437/A1/2015 dt.:18.06.2015 and quash the same and consequently directing the respondent to grant compassionate appointment to the petitioner.

For Appellant : Mr.K.Abiya

For Respondent : Mr.T.S.Md.Mohideen, AGP

J U D G M E N T

(Judgment of the Court was made by G.R.SWAMINATHAN, J.)

The unsuccessful writ petitioner is on appeal, questioning the order dated 25 February 2016 in W.P(MD).No.3639 of 2016.

2.The writ petitioner's husband worked as Post Graduate teacher at Kulithalai Government Higher Secondary School. He died on 12 August 2011 while still in service.



3.The writ petitioner has a young child to support. As per the scheme governing appointment on compassionate grounds, the writ petitioner should have applied within three years from the date of demise of her husband. Unfortunately, she was locked in a litigation instituted by her mother in law. It is seen that the mother in law filed O.S.No.89 of 2011 on the file of the Sub Court, Kulithalai. The writ petitioner and the minor child as well as the educational authorities were made as defendants in the suit. The matter was referred to Lok Adalat and ultimately the suit was compromised and disposed of in late 2014. Only thereafter, the writ petitioner could move the concerned authorities for giving the required certificates without which she could not have applied for compassionate appointment. After getting the certificates on 26 March 2015, the writ petitioner formally applied in the prescribed format on 01 April 2015. The respondent herein passed the impugned order dated 18 June 2015 stating that the application was not filed within three years and therefore it could not be entertained. The learned Judge also sustained the said order and dismissed the writ petition. Aggrieved by the same, this intra Court appeal has been filed.

4.It is true that the scheme for compassionate appointment contemplated lodging of application within three years from the date of demise of the employee in question. But in the present case, it is seen that immediately after the death of her husband, the writ petitioner was locked in a litigation. The Education Department was also made a party to the suit proceedings. The benefits payable on account of the death of the writ petitioner's husband was also made an item in the suit schedule. On account of the pendency of the suit, the writ petitioner could not even obtain the basic eligibility certificates required from the concerned authorities. Without those certificates she could not have even applied in the necessary format. Therefore, there has been a slight delay in lodging of application. It is not as if the application is highly belated. The death of the writ petitioner's husband was on 12 August 2011. The application had been filed on 01 April 2015. As already pointed out, the writ petitioner / appellant is a widow and she has a daughter to support.

5.Considering the peculiar circumstances of the case, we are inclined to interfere with the order impugned in the writ petition. We therefore set aside the order made in the writ petition and allow this writ appeal and quash the order dated 18 June 2015 passed by the respondent herein in Na.Ka.2437/A1/2015 and remit to the file of the respondent. The respondent is directed to consider the case afresh and pass appropriate orders on the writ petitioner's application dated 01 April 2015, seeking compassionate appointment. The respondent shall complete the



entire exercise within a period of six weeks from the date of receipt of a copy of this order.

6.This writ appeal is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl side)

/True copy/

Sub Assistant Registrar

To

The District Educational Officer,
Karur, Karur District.

+1 cc to Mr.K.Rajkumar , Advocate in SR.No. 65692

+1 cc to The Special Government Pleader in SR.No.65915

Skm / Arul

AE/KP/SAR2/16.08.2017/3P/4C

W.A. (MD) No.1047 of 2016
and

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