



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.16111 of 2017

and

WMP No.12793 of 2017

Ayyarakkal

... Petitioner

Vs.

1. The District Collector
Virudhunagar District
Virudhunagar.

2. The District Project Officer,
Office of the District Project,
Virudhunagar District
Virudhunagar.

3. The Child Development Project Officer,
Integrated Child Development Scheme,
Thiruchuli at Tamilpadi
Virudhunagar District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to appoint me as a Helper in any Anganwadi Centers situated within the area limit of the Thiruchuli Panchayat Union, Virudhunagar District under compassionate grounds within the stipulated period.

For Petitioner : Mr.G.Marimuthu

For Respondents : Mr.R.Karthikeyan

Additional Government Pleader

ORDER

By consent of both sides, this writ petition itself is taken up for final disposal.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

3.The petitioner has come to this Court with this writ petition seeking a writ of mandamus to direct the respondents to appoint me as a Helper in any Anganwadi Centers situated within the area limit of the Thiruchuli Panchayat Union, Virudhunagar District under compassionate grounds within the stipulated period.



4. The learned counsel for the petitioner would submit that the petitioner is the daughter of late Ms. Seeniammal. While her mother was serving as a Helper in the Anganwadi Centre at Poolangal East Street, Thiruchuli Panchayat Union, she died on 04.12.2014 leaving the petitioner and her younger brother, namely, Balamurugan as her legal heirs. The petitioner studied upto 10th standard. After the death of her mother, the post of Helper in the Poolangal Anganwadi Centre is lying vacant. Moreover the person, who is working in the Thiruchuli Panchayat Union, is holding additional charge. Citing all these reasons, the petitioner gave a representation on 08.05.2017 to the first respondent to provide employment and compassionate appointment. The District Collector has also forwarded the said representation to the District Project Officer, Virudhunagar, the 2nd respondent herein, for necessary action. Subsequently, the petitioner was directed to submit her application along with necessary documents by the 2nd respondent. Accordingly, on 23.06.2017, the Tahsildar, Aruppukottai, has also issued a certificate stating that the petitioner is a fit person to get compassionate appointment. It is further stated that now, there are 77 vacancies available in the Anganwadi Centres in Virudhunagar District. Therefore, in any one of the vacancy, a direction may be given to the respondents to consider the case of the petitioner.

5. However, this Court is unable to entertain this writ petition. The reason is that the petitioner's mother died as early as on 04.12.2014 and much prior to the death of her mother, the petitioner married and settled down with her husband. Therefore, the question of indigenous circumstances would not arise in the present case, merely, for the reason that the petitioner is the daughter of the deceased, Seeniammal, who was serving as a Helper in Anganwadi Centre.

6. As per the ratio laid down by the Hon'ble Apex Court in State of Karnataka vs. Ameerbi and others [2007] 11 SCC 681, the Anganwadi Worker or Helper is not a civil post. For better appreciation, relevant paragraphs of the said judgments are extracted below:

"13. The posts of anganwadi workers are not statutory posts. They have been created in terms of the scheme. It is one thing to say that there exists a relationship of employer and employee by and between the State and anganwadi workers but it is another thing to say that they are holders of civil post.

20. Anganwadi workers, however, do not carry on any function of the State. They do not hold post under a statute. Their posts are not created. Recruitment rules ordinarily applicable to the employees of the



State are not applicable in their case. The State is not required to comply with the constitutional scheme of equality as adumbrated under Articles 14 and 16 of the Constitution of India. No process of selection for the purpose of their appointment within the constitutional scheme exists. We do not think that the said decision has any application in the instant case."

In view of the above state principles, this Court is unable to give a direction to the respondents to consider the case of the petitioner as a matter of right to get the benefit of compassionate appointment.

7. As I mentioned above, even before the death of the petitioner's mother that took place on 04.12.2014, the petitioner got married. Therefore, the question of providing compassionate appointment does not arise. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector
Virudhunagar District
Virudhunagar.
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Virudhunagar District
Virudhunagar.
3. The Child Development Project Officer,
Integrated Child Development Scheme,
Thiruchuli at Tamilpadi
Virudhunagar District.

+1cc to Mr.M. Jothi Basu, Advocate Sr.No.78403

+1cc to Spl.Government Pleader Sr.No.78651

RR

VB/GT/SAR1/29/11/2017/3P/6C

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