

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.A.No.1354/2018 and CMP.No.10805/2018

1. The Government of Tamil Nadu
rep. by its Secretary to Government,
Education Department,
Secretariat, Chennai-9.
 2. The Director of School Education,
DPI Complex, College Road, Chennai-6.
 3. The District Education Officer,
Tindivanam Taluk, Villupuram District.
 4. The Headmaster,
Government Higher Secondary School,
Atchipakkam, Villupuram District.
 5. The Joint Commissioner (Revenue),
Chepauk, Chennai-3. Appellants
- Vs
- V.Dhanasekaran Respondent

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 06.07.2017 made in W.P.No.35364/2012 by a learned Single Judge.W.P.NO.35364/12 filed under Article 226 of the Constitution of India to issue of Writ of Mandamus directing the respondent to appoint the Petitioner to the post of Junior Assistant in the Education Department on Compassionate grounds as per the clarification issued by the Joint Commissioner Revenue in Na.Ka.Aku. 4/63642/2011 date 14.09.2012 with effect from the date on which the persons who were junior to the petitioner in the list maintained for Compassionate grounds appointment were appointed with all consequential benefits including arrears of salary.

For Appellants	:: Mr.C.Munusamy, Special Government Pleader (Edn.)
For Respondent	:: Ms.Dakshayani Reddy

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 06.07.2017 made in W.P.No.35364/2012 by a learned Single Judge.

2. The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents therein to appoint the petitioner to the post of Junior Assistant in the Education Department on compassionate grounds as per the Clarification issued by the Joint Commissioner Revenue dated 14.9.2012 with effect from the date on which the persons who were juniors to the petitioner in the list maintained for compassionate grounds appointment were appointed with all consequential benefits including arrears of salary. The said Writ Petition was disposed of by the learned Single Judge by order dated 06.07.2017 granting the said relief to the Writ Petitioner. Aggrieved over the same, the respondents therein are before this Court with this Writ Appeal.

3. The matter is listed today under the caption, 'for admission'. We have heard the learned Special Government Pleader appearing on behalf of the appellants and the learned Counsel for the respondent herein and also perused the materials available on record.

4. At the outset, it is not in dispute that the respondent/writ petitioner's father Vijayamoorthy, who was working as Physical Education Teacher in the Government Higher Secondary School, Atchipakkam, Villupuram District passed away on 15.6.1995, leaving behind his wife, two sons and two daughters as his legal heirs. Thereafter, on 9.2.1996, the respondent made an application seeking compassionate ground appointment to the respondents 2 and 3 through the 4th respondent enclosing a Certificate issued by the Tahsildar dated 18.12.1995 duly certifying that the family of the respondent is in indigent circumstances apart from enclosing a 'No Objection Certificate' from other Legal Heirs. Thereafter, it appears that the concerned Tahsildar issued another Certificate dated 14.8.2000 certifying that the income of the respondent's family from agriculture was Rs.20,000/- p.a. and the same was also reiterated by the Revenue Divisional Officer, Tindivanam by Proceedings dated 26.02.2001. Thereafter, on scrutiny, the 3rd respondent by proceedings dated 2.3.2010 recommended the case of the petitioner and accordingly, his name was included in the waiting list for appointment on compassionate grounds and the same was also confirmed by the Joint Commissioner, Revenue vide Proceedings dated 14.9.2012. But till date though the respondent has possessed the requisite qualifications, no appointment was given to him.

5. But, the case of the appellants is that due to the ban imposed by the Government of Tamil Nadu during the period from 2001 to 2006 for compassionate ground appointments, the case of the respondent was delayed and the same was again considered only in the year 2007. According to the appellants herein, the respondent and his brother are running an Automobile Shop. Apart from that, his wife is working as a Nurse and therefore, they have not given compassionate ground appointment to him.

6. Under such circumstances, as held by the learned Single Judge in his order, we are of the view that the delay in considering the case of the respondent was on account of the ban imposed by the Government between 2001 and 2006. That cannot be put against him. He made an application well within the stipulated time and nowhere the appellants aver that the respondent is not qualified for appointment. The repeated requests made by the appellants to establish the indigent circumstances was in fact rightly established by the respondent with certificates issued by various Revenue Authorities. The veracity of the said certificates is not disputed by the appellant authorities. Therefore, as ordered by the learned Single Judge, the appellants herein are duty bound to appoint the respondent to the post of Junior Assistant in the Education Department on compassionate grounds with effect from the date on which the persons, who were juniors to the petitioner in the list maintained for compassionate grounds appointment were appointed, with all consequential benefits including arrears of salary. Thus, we do not find any error or infirmity to interfere with the order of the learned Single Judge.

7. In the result, the Writ Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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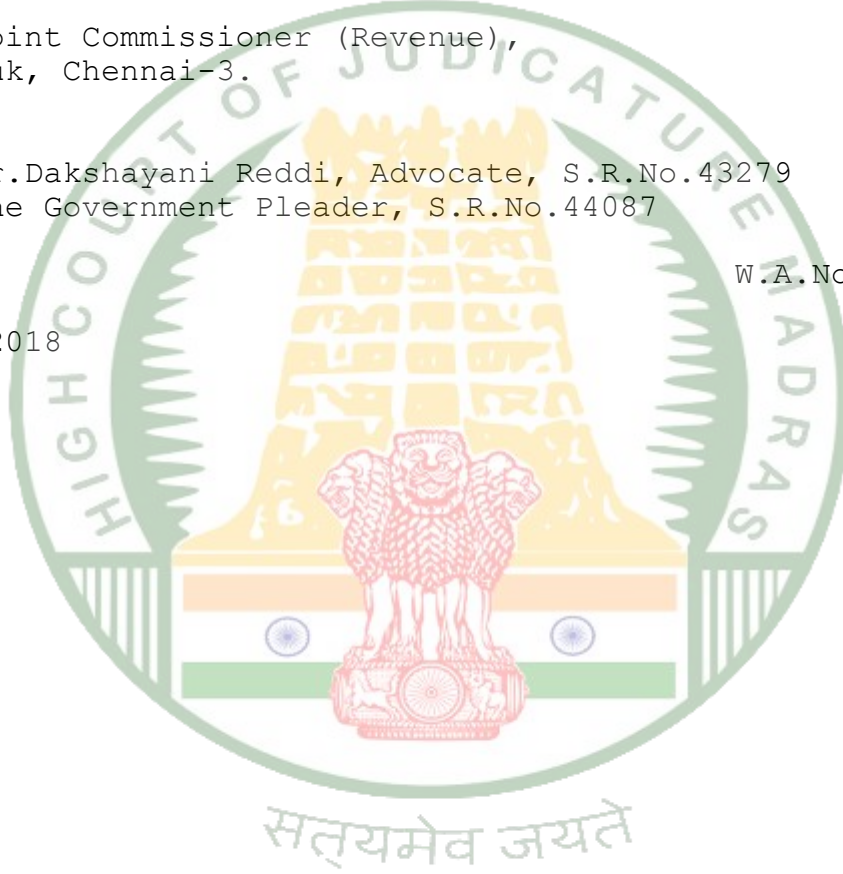
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+1cc to Mr.Dakshayani Reddi, Advocate, S.R.No.43279
+1cc to the Government Pleader, S.R.No.44087

W.A.No.1354/2018

VBA (CO)
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