

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.1814 of 2018
and
C.M.P.No.14614 of 2018

S.Dhivya

... Appellant

-vs-

1.The State represented by
The Principal Secretary,
Department of Municipal Administration
and Water Supply, Secretariat,
Fort St.George, Chennai-600 009.

2.The Commissioner,
Corporation of Madras,
Ripon Building, Chennai.

3.The Assistant Executive Engineer,
Corporation of Madras,
Zone-9, Division-26,
No.370, Anna Salai,
Saidapet, Chennai-15.

... Respondents

Appeal filed under Clause 15 of the Letters Patent, against
the order passed by this Court in W.P.No.1135 of 2015 dated
28.07.2017.

W.P.Nos.1135/2015:

Praying this Court to direct the respondents to consider the
petitioner representation dated 07.11.2014 within a stipulated
time

For Appellant :: Mr.R.Muniyapparaj

For Respondents:: Mr.P.P.Prathap Singh,
Government Advocate for R1

Mr.T.C.Gopalakrishnan for
R2 and R3

JUDGMENT
(Delivered by HULUVADI G.RAMESH, J.)

The matter pertains to compassionate appointment. The appellant herein filed a writ petition before this Court in W.P.No.1135 of 2015 praying for issuance of a Writ of Mandamus directing the respondents to consider the appellant's representation dated 07.11.2014 with regard to compassionate appointment, within a stipulated time frame. The learned single Judge, by order dated 28.07.2017, rejected the writ petition on the ground that no such direction could be issued in view of the legal principles contained in the decision rendered by a Division Bench of this Court in the case of The Inspector General of Prisons v. P.Marimuthu, reported in 2016 (5) CTC 125. Challenging the order passed in the writ petition, the present appeal has been filed.

2.The learned counsel for the appellant has submitted that the appellant's father, while working as a driver under the third respondent, died on 19.02.2002 and the appellant's mother also pre-deceased her father, on 25.11.2001. In the circumstances, the appellant has no other source of income to make out her livelihood and to take care of her sister. Even though the appellant's father died in the year 2002, since the appellant was only 3 years old at that time, she made the application for compassionate appointment after she attained the age of majority in the year 2014. The learned counsel submitted that the appellant had prayed only for a direction to the authorities to consider the representation made by her for compassionate appointment in accordance with law, but the learned single Judge has dismissed the writ petition by erroneously taking note of a decision of the Division Bench of this Court.

3.We have also heard the submissions made by the learned Government Advocate appearing for the first respondent and the learned counsel appearing for the respondents 2 and 3 and perused the materials available on record.

4.It is seen that in the writ petition filed by the appellant, she has only prayed for considering the representation made by her for compassionate appointment. It appears that at the time when her father got expired, she was only 3 years old. Hence she was not able to make the representation at that time. The moment she attained the age of majority, she made the representation in the year 2014, as the right has been accrued by her for making such representation only after she attained majority. Further, the prayer made by her before the writ Court is only to a limited extent of considering her representation in accordance with law.

5.In these circumstances, the impugned order passed by the learned single Judge is set aside and the respondents are directed to consider the representation dated 07.11.2014 made by the appellant for compassionate appointment, taking note of the circumstances, ie., whether there is existence of indigent circumstances or not, and also other requirements, and pass appropriate orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this judgment. It is made clear that the period from the date of the death of the appellant's father till the appellant attained the age of majority, shall be excluded, while considering the application made by the appellant for compassionate appointment.

6.The writ appeal is allowed in the above terms. No costs. Consequently the connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

KM

To

1.The Principal Secretary to Government,
Government of Tamil Nadu,
Department of Municipal Administration
and Water Supply, Secretariat,
Fort St.George, Chennai-600 009.

2.The Commissioner,
Corporation of Madras,
Ripon Building, Chennai.

3.The Assistant Executive Engineer,
Corporation of Madras,
Zone-9, Division-26,
No.370, Anna Salai,
Saidapet, Chennai-15.

+1 CC to Mr.R. Muniyapparaj, Advocate sr 68824.

+1 CC to Ms.T.C. Gopalakrishnan, Advocate sr 68742.

+1 CC to Govt. Pleader sr 70130.

W.A.No.1814 of 2018

and

C.M.P.No.14614 of 2018

VGI (CO)

SP(31/10/2018)