

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.07.2018
CORAM:
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
W.A.NO.61 OF 2018
AND CMP NO.418 OF 2018

V.Selvalakshmi ... Appellant/Petitioner
versus

- 1.The State of Tamil Nadu
Represented by its Principal Secretary
Department of School Education
Fort Saint George, Chennai - 600 009.
- 2.The Director of School Education
E.V.K. Sampath Maligai,
DPI Compound, College Road,
Chennai - 600 006.
- 3.The District Elementary Educational Officer
Ariyalur - 621 704.
- 4.The District Educational Officer
Udayarpalayam Post,
Ariyalur District.
- 5.The Assistant Elementary Educational Officer
Office of the Elementary Education
T. Palur, Ariyalur District. Respondents

PRAYER: Appeal under Clause 15 of the Letters Patent filed against the order dated 04.09.2017 passed by this Court in W.P.No.16962 of 2015.

Petition under Article 226 of the Constitution of India to issue a writ of Certiorarified mandamus or any other Writ of nature of writ Calling for the entire records from the 3rd respondent relating to the impugned order bearing Na.Ka.No. 2707/(A1)/2014 dated 16.05.2015 and quash the same as illegal arbitrary in-operative in law and further directing the 3rd and 4th respondents to give junior assistant post to the petitioner in the way of compassionate appointment.

For Appellant : Mr.R.Sethu Pandian
For Respondents : Mr.K.Karthikeyan
Government Advocate

J U D G M E N T
[JUDGMENT OF THE COURT WAS MADE BY K.K.SASIDHARAN, J.]

The mother of the appellant initially filed an application for compassionate appointment. The application was not considered on the ground that the file was missing. Thereafter, she made an application for her daughter by name V.Selvalakshmi, the appellant herein. The said application was rejected on the ground that it was made after a period of three years from the date of death of the deceased Government servant. The said order was unsuccessfully challenged before the Writ Court. Feeling aggrieved, the appellant is before us.

2. We have heard the learned counsel for the appellant and the learned Government Advocate for the respondents.

3. The factual matrix indicates that Thiru.A.Vijayaragavan, father of the appellant died in harness on 30.06.1995. The mother of the appellant submitted an application for compassionate appointment on 01.07.1996. Since the application was not considered, a representation was submitted on 10.05.1997. However, the application was not considered presumably on the ground that the relevant file was missing. Thereafter and more particularly, after the appellant became major, she submitted a fresh application on 03.05.2000. The said application was rejected on the ground that it was belated.

4. The learned Single Judge dismissed the writ petition on the ground that the application submitted on 03.05.2000 was three years after the death of her father.

5. There is no dispute that within a period of 11 months, application for compassionate appointment was submitted by the mother of the appellant. The said application was not considered on the ground that the file was missing. It was only under the said circumstances, a fresh application was given by the appellant on 03.05.2000. The application submitted on 03.05.2000 has to be considered in the light of the earlier application dated 01.07.1996. Since the earlier application was well within the period prescribed for making application for compassionate appointment, the District Elementary Educational Officer, Ariyalur was not correct in rejecting it on the ground of delay. This aspect was not considered by the learned Single Judge. We are therefore of the view that the impugned order is liable to be set aside.

6. The impugned order dated 16.05.2015 is set aside. The order passed by the Writ Court is also set aside.

7. We direct the respondents to consider the application submitted by the appellant on 03.05.2000 along with the earlier application dated 01.07.1996 and decide the same on merits and as per law. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this judgment.

8. In the upshot, we allow the intra court appeal. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS IV)

//True copy//

Sub Assistant Registrar

TK
To

1. The Principal Secretary
Government of Tamil Nadu
Department of School Education
Fort Saint George,
Chennai - 600 009.
2. The Director of School Education
E.V.K. Sampath Maligai,
DPI Compound, College Road,
Chennai - 600 006.
3. The District Elementary Educational Officer
Ariyalur - 621 704.
4. The District Educational Officer
Udayarpalayam Post,
Ariyalur District.
5. The Assistant Elementary Educational Officer
Office of the Elementary Education
T. Palur, Ariyalur District.

+2cc to Mr.A.L.Namasivayam, Advocate SR.No.43774
+1cc to Government Pleader SR.No.44525

W.A.NO.61 OF 2018

KK (CO)
GN(26/07/2018)