

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 29.11.2018

CORAM

THE HON'BLE DR. JUSTICE S.VIMALA

Writ Petition No.19111 of 2018
& WMP Nos.22489 & 22490 of 2018

G.Thenmozhi

.. Petitioner

- Vs -

1. Principal Director office (Highways)
Guindy Chennai 600 025
2. The Divisional Engineer office (Highways)
Inspection Division Salem 636 004
3. The Chief Engineer (Highways)
Planning Designing & Inspection, Chennai 600 032
4. The Secretary, Labour and Employment Department,
Government of TamilNadu
Fort St.George Chennai-600 009 .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for records of impugned proceedings of the 1st Respondent vide circular No.12130 / Proceedings 1(2) / 2016 dated 15.12.2017 and that of the Consequential Circular No.25/2018 / A1 dated 11.01.2018 issued by 2nd respondent and quash the same and to direct the Respondents to appoint the Petitioner in suitable place based on the request for Compassionate Appointment dated 03.02.2016 of the petitioner.

For Petitioner : Mr. V.Manohar

For Respondents : Mr. A.N.Thambidurai

O R D E R

Challenging the rejection order of the second respondent rejecting the request of petitioner for compassionate appointment, this writ petition has been filed.

2. The petitioner is one among the four daughters of V.Govindhamurali, who died on 05.12.2015 while in service in the office of the Divisional Highways, Salem. The petitioner, after getting divorce from her husband, by the order dated 04.11.2015, is living with her father and grandmother and she is taking care of the family. She made a representation dated 03.06.2016 seeking compassionate appointment with the second respondent.

3. The petitioner has presented all the certificates including the No Objection Certificate from all the legal heirs. The second respondent forwarded the representation to the third respondent and after verification procedure was completed, later the petitioner was informed that her request for compassionate appointment cannot be granted as she was over-aged by 9 months. The required age limit was 35, but the petitioner was aged 35 years and 9 months and therefore, her request was not considered.

4. It is the contention of the learned counsel appearing for the petitioner that the petitioner belongs to Adi-dravidar community and the impugned order passed by the fourth respondent was against the rules laid down. It is claimed that as per the rules, for the people belonging to the Scheduled Castes and Scheduled Tribes, the maximum age limit for appointment is 40.

4.1. In support of the said contention, the learned counsel for the petitioner relied upon:

(i) G.O.Ms.No.155 of 1993, Labour and Employment Department, Government of Tamil Nadu;

(ii) G.O.Ms.No.120 of 1995;

(iii) A Division Bench Judgment of this Court in the case of C.Jayapal v. The Director of Medical Education, Chennai - 10 and two others in W.P.No.744 of 2003, dated 27.10.2005.

4.2. In the Division Bench judgment, in paragraph 5 (2), it has been held that the dependants of the deceased Government Servants (belonging to SC / ST) can be appointed on compassionate grounds in relaxation of age rule, even if they exceed the age limit prescribed in the Special Rules, when it is more beneficial to the individual.

4.3. It is the grievance of the petitioner that this dictum has not been taken note of by the respondents and therefore, the rejection order has to be set-aside.

5. Admittedly, the petitioner is a person belonging to the SC / ST, who is entitled to the age relaxation in terms of the Government Orders as well as the judgment. Therefore, the impugned order rejecting the claim of compassionate ground is hereby set-aside. The respondents are directed to consider the claim of the petitioner, in the light of the relevant Government Orders as well as in the light of the order of this Court, cited supra, and to pass orders within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. Principal Director office (Highways)
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- 2 The Divisional Engineer office (Highways)
Inspection Division Salem 636 004.
- 3 The Chief Engineer (Highways)
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Chennai 600 032.
- 4 The Secretary, Labour and Employment Department
Government of TamilNadu
Fort St.George Chennai-600 009.

+2cc to Mr.V.Manohar, Advocate Sr.81915

+1cc to the Government Pleader Sr.82658

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srg 14/12/2018